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International Court of Justice

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JUSTICE JACKSON: (continuing) Your Honor, I am about to take up "Crimes in the Conduct of War," which is a quite separate subject. We are within five minutes of the recessing time. It will be very convenient for me if it willbe agreeable to you.

THE PRESIDENT: We will sit again in 15 minutes' time.

(Whereupon the court recessed for 15 minutes starting at 1530 hours).

(The court reconvened at 1550 hours).

THE PRESIDENT: The Tribunal must request that if it adjcurns for 15 minutes, that members of the bar and others are back in their seats after an interval of 15 minutes. Mr. Justice Jackson, I understand that you wish to continue to 5:15, when you may be able to conclude your speech?

JUSTICE JACKSON: I think that would be the most orderly way.

THE PRESIDENT: Yes, the Tribunal will be glad to do so. May it please your Honor, I will now take up the subject of "Crimes in the Conduct of War."

CRIMES IN THE CONDUCT OF WAR

Even the most warlike of peoples have recognized in the name of humanity some limitations on the savagery of warfare. Rules to that end have been embodied in international convention to which Germany became a party. This code had prescribed certain restraints as to the treatment of belligerents. The enemy was entitled to surrender and to receive quarter and good treatment as a prisoner of war. We will show by German documents that these rights were denied, that prisoners of war were given brutal treatment and often murdered. This was particularly true in the case of captured airmen, often my contrymen.

On June 1, 1944, it was ordered that captured English and American airmen should no longer be granted the status of prisoners of war. They were to be treated as criminals and the Army was ordered to refrain from protecting them against lynching by the populace. This order was sent out at the request of the Reichsfuehrer SS. "I am sending you the inclosed order with the request that the Chief of

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the Regular Police and of the Security Police be informed. They are to make this instruction known to their subordinate officers verbally. It is not the task of the police to interfer in clashes between Germans and English and American flyers who have bailed out."

The Nazi Government, through its propaganda agencies, took pains to incite the civilian population to attack and kill airmen who crash-landed. Similarly, we will show Hitler's top secret order that commandos, regardless of condition, were to be killed to the last man. In that case we have the original documents with the Fuehrer's signature attached. We will show the circulation of secret orders, to be passed orally to civilians that enemy parachutists were to be arrested or liquidated. By such means were murders incited and directed.

This Nazi campaign of ruthless treatment of enemy forces assumed its greatest proportions in the fight against Russia. Eventually all prisoners of war were taken out of control of the Army and put in the hands of Himmler and SS. In the East, the German fury spent itself. Russian prisoners of war were ordered to be branded. They were starved. I shall quote passages from a letter written February 28, 1942 by defendant Rosenberg to defendant Keitel; and this is what he said:

> "The fate of the Soviet prisoners of war in Germany is on the contrary a tragedy of the greatest extent. Of 3.6 millions of prisoners of war, only several hundred thousand are still able to work fully. A large part of them has starved, or died, because of the hazards of the weather. Thousands also died from spotted fever.
>
> The camp commanders have forbidden the civilian population to put food at the disposal of the prisoners, and they have rather let them starve to death.
>
> In many cases, when prisoners of war could no longer keep up on the march because of hunger and exhaustion, they were shot before the eyes of the horrified population, and the corpses were left.
>
> In numerous camps, no shelter for the prisoners of war was provided at all. They lay under the open sky during rain or snow. Even tools were not made available to dig holes or caves.

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> Finally, the shooting of prisoners of war must be mentioned; for instance, in various camps, all the "Asiatics" were shot.

Civilized usage and conventions to which Germany was a party had prescribed certain immunities for civilian populations unfortunate enough to dwell in lands overrun by hostile armies. The German occupation forces, controlled or commanded by men on trial before you, committed a long series of outrages against the inhabitants of occupied territory that would be incredible except for captured orders and the captured reports which show the fidelity with which those orders were executed.

We deal here with a phase of common criminality designed by the conspirators as part of the common plan. We can appreciate why these crimes against their European enemies were not of a casual character but were planned and disciplined crimes only when we get at the reason for them. Hitler told his officers on August 22, 1939 that "The main objective in Poland is the destruction of the enemy and not the reaching of a certain geographical line." Those words were quoted. The project of deporting promising youth from occupied territories was approved by Rosenberg on the theory that " a desired weakening of the biological force of the conquered people is being achieved." To Germanize or to destroy was the program. Himmler announced, "Either we win over any good blood that we can use for ourselves and give it a place in our people or, gentlemen -- you may call this cruel, but nature is cruel -- we destroy this blood." As to "racially good types" Himmler further advised, "Therefore, I think that it is our duty to take their children with us, to remove them from their environment if necessary by robbing or stealing them." He urged deportation of Slavic children to deprive potential enemies of future soldiers.

The Nazi purpose was to leave Germany's neighbors so weakened that even if she should eventually lose the war, she would still be the most powerful nation in Europe. Against this back-

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ground, we must view the plan for ruthless warfare, which means a plan for the commission of war crimes and crimes against humanity.

Hostages in large numbers were demanded and killed. Mass punishments were inflicted, so savage that whole communications were extinguished. Rosenberg was advised of the annihilation of three unidentified villages in Slovakia. In May of 1943, another village of about 40 farms and 220 inhabitants was ordered wiped out. The entire population was ordered shot, the cattle and property impounded, and the order required that "the village will be destroyed totally by fire." A secret report from Rosenberg's Ministry of Eastern territory, where he was responible reveals this as I quote it:"

> "Food rations allowed the Russian population are so low that they fail to secure their existence and provide only for minimum subsistence of limited duration. The population does not know if they will still live tomorrow. They are faced with death by starvation.
>
> "The roads are clogged by hundreds of thousands of people, sometime as many as one million according to the estimate of experts, who wander around in search of nourishment.
>
> "Sauckel's action has evased great unrest among the civilians. Russian girls were deloused by men, nude photos in forced positions were taken, women doctoers -- I think it is nurses-- were locked into freight cars for the pleasure of the transport commanders, women in night shirts were fettered and forced through the Russian towns to the railroad station, etc. All this material has been sent to the OKH."

Perhaps the deportation to slave labor was the most horrible and extensive slaving operation in history. On few other subjects is our evidence so abundant and so damaging. A speech of the defendant Frank, Governor General of Poland, made on January 25, 1944, boasts, "I have sent 1,300,000 Polish workers into the Reich." The defendant Sauckel reported that "out of the five

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million foreign workers who arrived in Germany not even 200,000 came voluntarily." This fact was reported to the Fuehrer and defendants Speer, Goering, and Keitel. (Document No. R-124.) Children of 10 to 14 years were impressed into service. When enough slave labor was not forthcoming, prisoners of war were forced into war work in flagrant violation of international conventions. Slave labor came from France, Belgium, Holland, Italy, and the East. Methods of recruitment were violent. The treatment of these slave laborers was stated in general terms, not difficult to translate into concrete deprivations, in a letter to the defendant Rosenberg from the defendant Sauckel, it is stated:

> "All the men (prisoners of war and foreign civilian workers) must be fed, sheltered and treated in such a way as to exploit them to the highest possible extent at the lowest conceivable degree of expenditure."

Finally, the shooting of prisoners of war must be mentioned.

In pursuance of the Nazi plan permanently to reduce the living standards of their neighbors and to weaken them physically and economically, a long series of crimes were committed. There was extensive destruction, serving no military purpose, of the property of civilians. Dikes were thrown open in Holland almost at the close of the war not to achieve military ends but to destroy the resources and retard the economy of the thrifty Netherlanders.

There was carefully planned economic syphoning off of the assets of occupied countries. An example of the planning is shown by a report on France dated December 7, 1942 made by the Economic Research Department of the Reichsbank. The question arose whether French occupation costs should be increased from 15 million Reichsmarks per day to 25 million Reichsmarks per day. The Reichsbank analyzed French economy to determine whether it could bear the burden. It pointed out that the armistice had burdened France to that date to the extent of 18½ billion Reichsmarks, equalling 370 billion Francs. It pointed out that the burden of these payments within two and a half years equalled the aggregate French national

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income inthe year 1940, and that the payments handed over to Germany in the first six months of 1942 corresponded to the estimate for the total French revenue for that year. The report concluded, "In any case, the conclusion is inescapable that relatively heavier tributes have been imposed on France since the armistice in June 1940 than upon Germany after the World War. In this connection, it must be noted that the economic powers of France never equalled those of the German Reich and that the vanquished France could not draw on foreign economic and financial resources in the same degree as Germany after the last World War."

The defendant Funk was the Reichs Minister of Economies and President of the Reichsbank that made that report; the defendant Ribbentrop was Foreign Minister; the Defendant Goering was Plenipotentary for the Four-Year Plan, and all of them participated in the exchange of views of which this captured document is a part. Notwithstanding this analysis by the Reichsbank, they proceeded to increase the imposition on France from 10 million Reichsmarks daily to 25 million per day.

It is small wonder that the bottom has been knocked out of French economy. The plan and purpose of the thing appears in a letter from General Stulpnagle, head of the German Armistice Commission, to the defendant Jodl as early as 14th September, 1940 when he wrote, "The slogan 'Systematic weakening of France' has already been surpassed by far in reality."

Not only was there a purpose to debilitate and demoralize the economy of Germany's neighbors for the purpose of destroying their competitive position, but there was looting and pilfering on an unprecedented scale.

We do not need to be hypocritical about this business of looting. I recognize that no army moves through occupied territory without some pilfering as it goes. Usually the amount of pilfering increases as discipline wanes. Exactly the contrary with Germany. If the evidence in this case showed no looting from lack of discipline, I certainly would ask no conviction of these defendants for it.

But we will show you that looting was not due to the lack of discipline or to the ordinary weaknesses of human nature. The German

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organized plundering, planned it, disciplined it, and made it official just as he organized everything else, and then he compiled the most meticulous records to show that he had done the best job of looting that was possible under the circumstances. And we have those records.

The defendant Rosenberg was put in charge of a systematic plundering of the art objects of Europe by direct order of Hitler dated September 17, 1940. On the 16th of April, 1943 Rosenberg reported that up to the 7th of April, 92 railways cars with 2,775cases containing art objects had been sent to Germany; and that 53 pieces of art had been shipped to Hitler direct, The defendant apparently did ten times as well in the collection of art objects as the Fuehrer, and 594 to the defendant Goering. The report mentioned something like 20,000 pieces of siezed art and the main locations where they were stored.

Moreover this looting was glorified by Rosenberg. Here we have 39 leather-bound tabulated volumes of his inventory, which in due time we will offer in evidence. One cannot but admire the artistry of this Rosenberg report, 39 volumes such as I hold in my hand. The Nazi taste was cosmopolitan. Of the 9.455 articles inventorized, there were included 5,255 paintings , 297 sculptures, 1,372 pieces of antique furniture, 307 textiles,and 2, 224 small objects of art. Rosenberg observed that there were approximately 10,000 more objects still to be inventorized. Rosenberg himself estimated that the values involved would come close to a billion dollars.

The inventory is typically methodical; A list of the objects dealt with in the particular volume, and photographs of the great masterpieces of art looted from the cultural centers of Europe and shipped to Germany--39 volumes. The one that I hold deals with paintings; sculpture likewise.

Such was the looting that we prepared to show in this case, not the looting of individual soldiers long away from home who helped themselves to what comes to hand, but an organized, systematic plan to loot Europe.

I shall not go into further details of the war crimes and crimes against humanity committed by the Nazi gangster ring whose leaders are before you. It is not the purpose in my part of this case to deal with

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the individual crimes. I am dealing with the common plan or design for crime and will not dwell upon individual offenses. My task is only to show the scale on which these crimes occurred, and to show that these are the men who were in the responsible positions and who conceived the plan and design which renders them answerable, regardlwss of the fact that the plan was actually executed by others.

At length, this reckless and lawlwss course outraged the world. It recovered from the demorilization of surprise attack, assembled its forces and stopped these men in their tracks. Once success deserted their banners, one by one the Nazi satellites fell away. Sawdust Caesar collasped. Resistance forces in every occupied country arose to harry the invader. Even at home, Germans saw that Germany was being led to ruin by these mad men, and the attempt on July 20,1944 to assassinate Hitler an attempt fostered by men of highest station, was a desperate effort by internal forces to stop short of ruin. Quarrels broke out among the failing conspirators, and the decline of the Nazi power was more swift than its ascendancy. German armed forces surrendered, its government disintegrated, its leaders committed suicide by the dozen, and by the fortunes of war these defendants fell into our hands. Although they are not by any means all the guilty ones, they are survivors among the most responsible. Their names appear over and over in the documents and their faces grace the photographic evidence. We have here the surviving top politicians, militarists, financiers, diplomats, administrators, and propagandists,of the Nazi movement. Who was responsible for these crimes if they were not?

The end of the war and capture of these prisoners presented the victorious Allies with the question whetherthere is any legal responsibility on high-ranking men for acts which I have described. Must such wrongs either be ignored or redressed in hot blood? Is there no standard in the law for a deliberate and reasoned judgment on such conduct?

The Charter of this Tribunal evidence a faith that the law is not only to govern the conduct of little men, but that rulers are, as Lord Chief Justice Coke put it to King James, "under God and the law".

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The United States believed that the law long has afforded standards by which a juridical hearing could be conducted to make sure that we punish only the right men and for the right reasons. Following the instructions of the late President Roosevelt and the decision of the Yalta conference President Truman directed representatives of the United

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States to formulate a proposed International Agreement, which was submitted during the San Francisco Conference to Foreign Ministers of the United Kingdom, the Soviet Union, and the Provisional Government of France. With many modifications, that proposal has become the Charter of this Tribunal.

But the Agreement which sets up the standards by which these prisoners are to be judged does not express the views of the signatory nations alone. Other nations with diverse but highly respected systems of jurisprudence also have signified adherence to it. These are Belgium, The Netherlands, Denmark, Norway, Czechoslovakia, Luxembourg, Poland, Greece, Yugoslavia, Ethiopia, Australia, Haiti, Honduras, Panama and New Zealand. You judge, therefore, under an organic act which represents the wisdom, the sense of justice, and the will of nineteen governments, representing an overwhelming majority of all civilized people.

The Charter by which this Tribunal has its being, embodies certain legal concepts which are inseparable from its jurisdiction and which govern its decision. These, as I have said, are also conditions attached to any grant of hearing to defendants. The validity of the provisions of the Charter is conclusive upon us all whether we have accepted the duty of judging or of prosecuting under it, as well as upon the defendants, who can point to no other law which gives them a right to be heard at all. My able and experienced colleagues believe, as I do, that it will contribute to the expedition and clarity of this trial if I expound briefly the application of the legal philosophy of the Charter to the facts I have recited.

While this declaration of the law by the Charter is final, it may be contended that the prisoners on trial are entitled to have it applied to their conduct only most charitably if at all. Of course in clarifying it in one paragraph many questions of application must be left unsolved. It may be said that this is new law, not authoritatively declared at the time they did the acts it condemns, and that this declaration of the law has taken them by surprise.

I cannot, of course, deny that these men are surprised that this is the law; they really are surprised that there is any such thing as

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law. These defendants did not rely on any law at all. Their program ignored and defied all law. That this is so will appear from many acts and statements, of which I cite but a few. I have already called your attention to the Fuehrer's remark before invading Poland that "The Victor is never asked whether he spoke the truth." In his speech to all military commanders on November 23, 1939, he reminded them that at the moment Germany had a pact with Russia, but declared, "Agreements are to be kept only as long as they serve a certain purpose." Later on in the same speech he announced, "A violation of the neutrality of Holland and Belgium will be of no importance." A Top Secret document, entitled "Warfare as a Problem of Organization", dispatched by the Chief of the High Command to all Commanders on April 19, 1938, declared that "the normal rules of war towards neutrals must be considered to apply on the basis whether operation of rules will create greater advantages or disadvantages for belligerents." And from the files of the German Navy Staff, we have a "Memorandum on Intensified Naval War," dated October 15, 1939, which begins by stating adesire to comply with International Law. "However," it continues, "if decisive successes are expected from any measure considered as a war necessity, it must be carried through even if it is not in agreement with international law." International Law, natural law, German law, any law at all was to these men simply a propaganda device to be invoked when it helped and to be ignored when it would condemn what they wanted to do. That men may be protected in relying upon the law at the time they act is the reason we find law of retrospective operation unjust. But these men cannot bring themselves within the reason of the rule which in some systems of jurisprudence prohibits ex post facto laws. They cannot show that they ever relied upon International Law in any state or paid it the slightest regard.

The third count of the indictment is based on the definition of war crimes contained in the Charter. I have outlined to you the systematic course of conduct toward civilian populations and combat forces which violates international conventions to which Germany was a party. Of the criminal nature of these acts at least, the defendants had, as

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we shall show, clear knowledge. Accordingly, they took pains to conceal their violations. It will appear that the defendants Keitel amd Jodl were informed by official legal advisors that the orders to brand Russian prisoners of war, to shackle British prisoners of war, and to execute commando prisoners were clear violations of International Law. Nevertheless, these orders were put into effect. The same is true of orders issued for the assassination of General Giraud and General Weygand, which failed to be executed only because of a ruse on the part of Admiral Canaris, who was himself later executed for his part in the plot to take Hitler's life on July 20, 1944.

The Fourth Count of the Indictment is based on crimes against humanity. Chief among these are mass killings of countless human beings in cold blood. Does it take these men by surprise that murder is treated as a crime?

The First and Second Counts of the Indictment add to these crimes the crime of plotting and waging wars of aggression and wars of violation of nine treaties to which Germany was a party. There was a time, in fact I think the time of the first World War, when it could not have been said that war inciting or war making was a crime in law, however reprehensible in morals.

Of course, it was under the law of all civilized peoples a crime for one man with his bare knuckles to assault another. How did it come that multiplying this crime by a million, and adding fire arms to bare knuckles, made it a legally innocent act? The doctrine was that one could not be regarded as criminal for committing the usual violent acts in the conduct of legitimate war. The age of imperialistic expansion during the Eighteenth and Nineteenth Centuries added the foul doctrine, contrary

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to the teachings of early Christian and International Law scholars such as Grotius, that all wars are to be regarded as legitimate wars. The sum of these two doctrines was for a time to give war-making a complete immunity from accountability to law.

This was intolerable for an age that called itself civilized. Plain people, with their earthy common sense, revolted at such fictions and legalisms so contrary to ethical principles and demanded checks on war immunity. Statesmen and international lawyers at first cautiously responded by adopting rules of warfare designed to make the conduct of war more civilized. The effort was to set legal limits to the violence that could be done to civilian populations and to combatants as well.

The common sense of men after the First World War demanded, however, that the law's condemnation of war reach deeper, and that the law condemn not merely uncivilized ways of waging war, but also the waging in any way of uncivilized wars - wars of aggression. The world's statesmen again went only as far as they were forced to go. Their efforts were timid and cautious and often less explicit than we might have hoped. But the 1920's did outlaw aggressive war.

The reestablishment of the principle that there are unjust wars and that unjust wars are illegal is traceable in many steps. One of the most significant is the Briand-Kellogg Pact of 1928, by which Germany, Italy and Japan, in common with practically all nations of the world, renounced war as an instrument of national policy, bound themselves to seek the settlement of disputes only by pacific means, and comdemned recourse to war for the solution of international controversies. This pact altered the legal status of a war of aggression. As Mr Stimson, the United States Sectretary of State put it in 1932, such a war of aggression "is no longer to be the source and subject of rights. It is no longer to be the principle around which the duties, the conduct, and the rights of nations revolve. It is an illegal thing * * *By that very act, we have made legal precedents and have given the legal profession the task of reexamining many of its codes and treaties."

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The Geneva Protocol of 1924 for the Pacific Settlement of International Disputes, signed by the representatives of forty-eight governments, declared that " a war of aggression constitues * * * an international crime." The Eighth Assembly of the League of Nations in 1927, on unanimous resolution of the representatives of forty-eight member nations, including Germany, declared that a war of aggression constitutes an international crime. At the Sixth Pan-American Conference of 1928, the twenty-one American Republics unanimously adopted a resolution stating that " war of aggression constitues an international crime against the human species."

A failure of these Nazis to heed, or to understand the force and meaning of this evolution in the legal thought of the world, is not a defense or a mitigation. If anything, it aggrevates their offense and makes it the more mandatory that the law they have flouted be vindicated by juridical application to their lawless conduct. Indeed, by their own law -- had they heeded any law -- these principles were binding on these defendants. Article 4 of the Weimar Constitution provided that "The generally accepted rules of international law are to be considered as binding integral parts of the law of the German Reich." Can there be any doubt that the outlawry of aggressive war was one of the "generally accepted principles of international law" in 1939?

Any resort to war - to any kind of a war - is a resort to means that are inherently criminal. War inevitably is a course of killings, assualts, deprivations of liberty, and destruction of property. An honestly defensive war is, of course, legal and saves those lawfully conducting it from criminality. But inherently criminal acts cannot be defended by showing that those who committed them were engaged in a war, when war itself is illegal. The very minimum legal consequence of the treaties making aggressive wars illegal is to strip those who incite or wage them of every defense the law ever gave, and to leave warmakers subject to judgment by the usually accepted principles of the law of crimes.

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But if it be thought that the Charter, whose declarations concededly bind us all, does contain new law I still do not shrink from demanding its strict application by this tribunal. The rule of law in the world, flouted by the lawlessness incited by these defendants, had to be restored at the cost to my country of over a million casualties, not to mention those of other nations. I cannot subscribe to the perverted reasoning that society may advance and strengthen the rule of law by the expenditure of morally innocent lives but that progress in the law may never be made at the price of morally guilty lives.

It is true, of course, that we have no judical precendent for the Charter. But International Law is more than a scholarly collection of abstract and immutable principles. It is an outgrowth of treaties and agreements between nations and of accepted customs. Yet every custom has its origin in some single act, and every agreement has to be initiated by the action of some state. Unless we are prepared to abandon every principle of growth for International Law, we cannot deny that our own day has the right to institute customs and to conclude agreements that will themselves become sources of a newer and strengthend International Law. International Law is not capable of development by the normal processes of legislation, for there is no continuing international authority. Innovations and revisions in International Law are brought about by the actions of governments such as those I have cited, designed to meet a change in circumstances. It grows, as did the Common Law, through decisions reached from time to time in adapting settled principles to new situations. The fact is that when the law evolves by the case method, as did the Common Law and as International Law must do if it is to advance at all, it advances at the expense of those who wrongly guessed the law and learned too late their error. The law, so far as International Law can be decreed, had been clearly pronounced when these acts took place. Hence we are not disturbed by the lack of judicial precedent for the inquiry we propose to conduct.

The events I have earlier recited clearly fall within the standards of crimes, set out in the Charter, whose perpetrators this Tribunal is

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convened to judge and punish fittingly. The standards for war crimes and crimes against humanity are to familiar to need comment. There are, however, certain novel problems in applying other precepts of the Charter which I should call to your attention.

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A basic provision of the Charter is that to plan, prepare, initiate, or wage a war of aggression, or a war in violation of international treaties, agreements, and assurances, or to conspire or participate in a common plan to do so is a crime.

It is perhaps a weakness in this Charter that it fails itself to define a war of aggression. Abstractly, the subject is full of difficulty and all kinds of troublesome hypothetical cases can be conjured up. It is a subject which, if the defense should be permitted to go afield beyond the very narrow charge in the Indictment, would prolong the trial and involve us in insoluble political issues. But so far as the question can properly be involved in this case, the issue is one of no novelty and is one on which legal opinion has well crystalized.

One of the most authoritative sources of International Law on this subject is the Convention for the Definition of Aggression signed at London on July 3, 1933 by Roumania, Estonia, Latvia, Poland, Turkey, the Soviet Union, Persia and Afghanistan. The subject has also been considered by international committees and by commentators whose views are entitled to the greatest respect. It had been little discussed prior to the First World War but has received much attention as International Law has evolved its outlawry of aggressive war. In the light of these materials of International Law, and so far as relevant to the evidence in this case, I suggest that an "aggressor" is generally held to be that state which is the first to commit any of the following actions:

(1) Declaration of war upon another State:

(2) Invasion by its armed forces, with or without a declaration of war, of the territory of another State:

(3) Attack by its land, naval, or air forces, with or without a declaration of war, on the territory, vessels or aircraft of another State: and

(4) The provision of support to armed bands formed in the territory of another State, or refusal, notwithstanding the request of the invaded State, to take in its own territory, all the measures in its power to deprive those bands of all assistance or protection.

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And I further suggest that it is the general view that no political, military, economic or other considerations shall serve as an excuse or justification for such aggressive actions; but of course the exercise of the right of legitimate self-defense, that is to say, resistance to an act of aggression, or action to assist a State which has been subjected to aggression, shall not of course constitute a war of aggression.

It is upon such an understanding of the law that our evidence of a conspiracy to provoke and wage an aggressive war is prepared and presented. By this test each of the series of wars begun by these Nazi leaders was unambiguously aggressive.

It is important to the duration and scope of this trial that we bear in mind the difference between our charge that this war was one of aggression and a position that Germany had no grievances. We are not inquiring into the conditions which contributed to causing this war. They are for history to unravel. It is no part of our task to vindicate the European status quo as of 1933, or as of any other date. The United States does not desire to enter into discussion of the complicated pre-war currents of European politics, and it hopes that this trial will not be protracted by their consideration. The remote causations avowed are too insincere and inconsistent, too complicated and doctrinaire to be the subject of profitable inquiry in this trial. A familiar example is to be found in the "Lebensraum" slogan, which summarized the contention that Germany needed more living space as a justification for expansion. At the same time that the Nazis were demanding more space for the German people, they were demanding more German people to occupy space. Every known means to increase the birth rate, legitimate and illegitimate, was utilized. "Lebensraum" represented a vicious circle of demand -- from neighbors more space, and from Germans more progeny. We need not investigate the verity of doctrines which led to constantly expanding circles of aggression. It is the plot and tha act of aggression which we charge to be crimes.

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Our position is that whatever grievances a nation may have, however objectionable it finds the status quo, aggressive warfare is not a legal means for settling those grievances or for altering those conditions. It may be that the Germany of the 1920's and 1930's faced desperate problems, problems that would have warranted the boldest measures short of war. All other methods -- persuasion, propaganda, economic competition, diplomacy - were open to an aggrieved country, but aggressive warfare was outlawed. These defendants did make aggressive war, a war in violation of treaties. They did attack and invade their neighbors in order to effectuate a foreign policy which they knew could not be accomplished by measures short of war. And that is as far as we propose or need to inquire, because that is as far as we accused.

THE LAW OF INDIVIDUAL RESPONSIBILITY

The Charter also recognizes individual responsibility on the part of those who commit acts defined as crimes, or who incite others to do so, or who join a common plan with other persons, groups or organizations to bring about their commission. The principle of individual responsibility for piracy and brigandage, which have long been recognized as crimes punishable under International Law, is old and well established. That is what illegal warfare is. This principle of personal liability is a necessary as well as a logical one if International Law is to render real help to the maintenance of peace. An International Law which operates only on states can be enforced only by war because the most practicable method of coercing a state is warfare. Those familiar with American history know that one of the compelling reasons for adoption of our Constitution was that the laws of the Confederation, which operated only on constituent states, were found ineffective to maintain order among them. The only answer

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to recalcitrance was impotence or war. Only sanctions which reach individuals can peacefully and effectively be enforced. Hence, the principal of the criminality of aggressive was is implemented by the Charter with the principal of personal responsibility.

Of course, the idea that astate, any more than a corporation, commits a crime is a fiction. Crimes always are committed only by persons. While it is quite proper to employ the fiction of responsibility of a state or corporation for the purpose of imposing a collective liability, it is quite intolerable to let such a legalism become the basis of a personal immunity.

The Charter recognizes that one who has committed criminal acts may not take refuge in superior orders nor in the doctrine that his crimes were acts of states. These twin principles working together have heretofore resulted in immunity for practically everyone concerned in the really great crimes against peace and mankind. Those in lower ranks were protected against liability by theorders of their superiors. The superiors were protected because their orders were called acts of state. Under the Charter, no defense based on either of these doctrines can be entertained. Modern civilization puts unlimited weapons of destruction in the hands of its statesmen. It cannot tolerate so vast an area of legal irresponsibility.

Even the German Military Code provides, and I quote:

> "If the execution of a miliatry order in the course of duty violates the criminal law, then the superior officer giving the order will bear the sole responsibility therefor. However, the obeying subordinate will share the punishment of the participant: (1) if he has exceeded the order given to him, or (2) if it was within his knowledge that the order of his superior officer concerned an act by which it was intended to commit a civil or military crime or transgression." (Reichsgesetzblatt 1926 No.37,p.278,Art.47)

Of course, we do not argue that the circumstances under which one commits an act should be disregarded in judging its legal effect. A conscripted private on a firing squad cannot be expected to hold an inquest on the validity of the execution.

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The Charter implies common sense limits to liability just as it places common sense limits upon immunity. But none of these men before you acted in minor parts. Each of them was entrusted with broad discretion and exercised great power and knew the purpose of the acts they were committing. Their responsibility is correspondingly great and may not be shifted to that fictional being, "the State", which can not be produced for trial, can not testify, and can not be sentenced.

The Charter also recognizes a vicarious liability, which responsibility is recognized by most modern systems of law, for acts committed by others in carrying out a common plan or conspiracy to which the defendant has become a party. I need not discuss the familiar principles of such liability. Every day in the courts of countries associated in this prosecution, men are convicted for acts that they did not personally commit but for which they were held responsible because of membership in illegal combinations or plans or conspiracies.

Accused before this Tribunal as criminal organizations are certain political and police organizations which the evidence will show to have been instruments of cohesion in planning and executing the crimes I have detailed. Perhaps the worst of the movement were the Leadership Corps of the NSDAP, the Schultzstaffeln or "SS", and the Sturmabteilungen or "SA", and the subsidiary formations which these include. These were the Nazi leadership, espionage, and policing groups. They were the real government, above and outside of any law. Also accused as organizations are the Reich Cabinet and the Secret State Police, or Gestapo, which were fixtures of the Government but animated solely by the Nazi Party.

Except for a late period when some compulsory recruiting was done in the SS, membership in all these militarized organizations was voluntary. The police organizations were recruited from

H0004-0023

ardent partisans who enlisted blindly to do the work the leaders planned. The Reich Cabinet was the governmental facade for Nazi Party Governmnet and in its members legal as well as actual responibility was vested for the entire program. Collectively they were responsible for the program in general, individually they were responsible for particular segments of it. The finding which we ask you to make, that these are criminal organizations, will subject members to punishment to be hereafter determined by appropriate tribunals, unless some personal defense - such as becoming a member under duress, under threat to person, to family, or inducement by false representation, or the like can be established. Every member will have a chance to be heard in the subsequent forum on his personal relation to the organization, but your finding in this trial will conclusively establish the criminal character of the organization as a whole.

We have also accused as criminal organizations the High Command and the General Staff of the German Armed Forces. We recognize that to plan warfare is the business of professional soldiers in every country. But it is one thing to plan strategic moves in the event war comes, and it is another thing to plot and intrigue to bring on that war. We will prove the leaders of the German General Staff and of the High Command to have been guilty of just that. Military men are not before you because they have served their country. They are here because they mastered it, and along with these others, drove it to war. They are not here because they lost the war but because they started one. Politicians may have thought of them as soldiers, but soldiers know they were politicians. We ask that the General Staff and the High Command, as defined in this Indictment, be condemned as a criminal group whose existence and tradition constitute a standing menace to the peace of the world.

These individual defendants did not stand alone in crime and will not stand alone in punishment. Your verdict of "guilty" against these organizations will render <u>prima facie</u> guilty, as

H0004-0024

nearly as we can learn, many thousands of members now in custody of United States forces and of other Armies.

H0004-0025

To apply the sanctions of the law to those whose conduct is found criminal by the standards I have outlined, is the responsibility committed by the Charter to this Tribunal. It is the first court ever to undertake the difficult task of overcoming the confusion of many tongues and the conflicting concepts of just procedure among divers systems of law, so as to reach a common judgment. The tasks of all of us are such as to make heavy demands on patience and good will. Although the need for prompt action has admittedly resulted in imperfect work on the part of the prosecution, four great nations bring you their hurriedly assembled contributions of evidence. What remains undiscovered we can only guess. We could, with witnesses' testimony, prolong the recitals of crime for years - but to what avail? We shall rest the case when we have offered what seems convincing and adequate proof of the crimes charged without unnecessary cumulation of evidence. We doubt very much whether it will be seriously denied that the crimes I have outlined took place. The effort will undoubtedly be to mitigate or escape personal responsibility.

Among the nations which unite in accusing these defendants the United States is perhaps in a position to be the most dispassionate, for, having sustained the least injury, it is perhaps the least animated by vengeance. Our American cities have not been bombed by day or night, by humans, and by robots. It is not our temples that have been laid to ruins. Our countrymen have not had their homes destroyed over their heads. The menace of Nazi aggression, except to those in actual service, has seemed less personal and immediate to us than to European peoples. But while the United States would not be first in rancor, it is not second in determination that the forces of law and order be made equal to the task of dealing with such international lawlessness as I have recited here.

Twice in my lifetime, the United States has sent its young manhood across the Atlantic, drained its resources, and burdened itself with debt to help defeat Germany, But the real hope and faith that has sustained the American people in these great efforts was that victory for ourselves and our Allies would lay the basis for an ordered international relationship in Europe and would end the centuries of strife on this embattled continent.

H0004 – 0026

Twice we have held back in the early stages of European conflict in the belief that it might be confined to a purely European affair. In the United States, we have tried to build an economy without armament, a system of government without militarism, and a society where men are not regimented for war. This purpose, we know now, can never be realized if the world periodically is to be embroiled in war. The United States cannot, generation after generation, throw its youth or its resources onto the battlefields of Europe to redress the lack of balance between Germany's strength and that of her enemies, and to keep the battles from our shores.

The American dream of a peace and plenty economy, as well as the hopes of other nations, can never be fulfilled if those nations are involved in a war every generation so vast and devastating as to crush the generation that fights and burden the generation that follows, Experience has shown that wars are no longer local. All modern wars become world wars eventually. And none of the big nations at least can stay out. If we cannot stay out of wars, our only hope is to prevent wars.

I am too well aware of the weaknesses of juridical action alone to contend that in itself your decision under this Charter can prevent future wars. Judicial action always comes after the event. Wars are started only on the theory and in the confidence that they can be won. Personal punishment, to be suffered only in the event the war is lost, will probably not be sufficient deterent to prevent a war where the warmakers feel the chances of defeat to be negligible.

But the ultimate step in avoiding periodic wars, which are inevitable in a system of international lawlessness, is to make statesmen responsible to law. And let me make clear that while this law is first applied against German aggessors, the law includes, and if it is to serve a useful purpose it must condemn sggression by any other nations, including those which sit here now in judgment. We are able to do away with domestic tyranny and violence and aggression by those in power against the rights of their own people only when we make all men

H0004-0027

answerable to law. This trial represents mankind's desperate effort to apply the discipline of the law to statesmen who have used their powers of state to attack the foundations of the world's peace and to commit aggressions against the rights of their neighbors.

The usefulness of this effort to do justice is not to be measured by considering the law or your judgment in isolation. This trial is part of the great effort to make the peace more secure. One step in this direction is the United Nations organization, which may take joint political action to prevent war if possible, and joint military action to insure that any nation which starts a war will lose it. This Charter and this trial, implementing the Kellogg-Briand Pact, constitute another step in the same direction - juridical action of a kind to ensure that those who start a war will pay for it personally.

While the defendants and the prosecutors stand before you as individuals, it is not the triumph of either group alone that is committed to your judgment. Above all personalities there are anonymous and impersonal forces whose conflict makes up much of human history. It is yours to throw the trength of the law back of either the one or the other of these forces for at least another generation. What are the real forces that are contending before you?

No charity can disguise tha fact that the forces which these defendants represent, the forces that would advantage and delight in their acquittal, the forces with which they have identified themselves and whose crimes they have committed, are the darkest and most sinister forces in society - dictatorship and oppression, malevolence and passion, militarism amd lawlessness. By their fruits we best know them. Their acts as we shall recount them before you, have bathed the world in blood and set civilization back a century. They have subjected their European neighbors to every outrage and torture,

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every spoliation and deprivation that insolence, cruelty, and greed could inflict. They have brought the German people to the lowest pitch of wretchedness, from which they can entertain no hope of early deliverance. They have stirred hatreds and inflamed domestic violence on every continent. There are the things that stand in the dock shoulder to shoulder with these prisoners.

The real complaining party at your bar is Civilization. In all our countries it is still a struggling and imperfect thing. It does not plead that the United States, or any other country, has been blameless of the conditions which made the German people easy victims to the blandishments and intimidations of the Nazi conspirators.

But it points to the dreadful sequence of aggressions and crimes I have recited, it points to the weariness of flesh, the exhaustion of resources, and the destruction of all that was beautiful or useful in so much of the world, and to greater potentialities for destruction in the days to come. It is not necessary among the ruins of this ancient and beautiful city with untold members of its civilian inhabitants still buried in its rubble, to argue the proposition that to start or wage an aggresive war has the moral qualities of the worst crimes. The refuge of the defendants can be only their hope that International Law will lag so far behind the moral sense of mankind that conduct which is crime in the moral sense must be regarded as innocence in law. We challenge that proposition.

Civilization asks whether law is so laggard as to be utterley helpless to deal with crimes of this magnitude by criminals of this order of importance. It does not expect that you can make war impossible. It does expect that your juridical action will put the forces of International Law, its precepts, its prohibitions and, most of all, its sanctions, on the side of peace, so that men and womwn of good will in all countries may have "leave to live by no man's leave , underneath the law".

THE PRESIDENT: The tribunal will now adjourn until 10 o'clock tomorrow morning.

(Whereupon at 1700 hours the Tribunal adjourned, to reconvine at 1000 hours the following day.)

H0004-0029

the internal discipline and administration of the Churches occurred.

A most intensive drive was directed against the Roman Catholic Church. After a strategic concordat with the Holy See, signed in July, 1933 in Rome, which never was observed by the Nazi Party, a long and persistent persecution of the Catholic Church, its priesthood and its members, was carried out. Church Schools and educational institutions were suppressed or subjected to requirements of Nazi teaching inconsistent with the Christian faith.

THE PRESIDENT: We shall now take our noon recess.

(Whereupon at 12:30 o'clock the adjournment was made)

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OFFICIAL TRANSCRIPT

of the

INTERNATIONAL MILITARY TRIBUNAL

in the matter of
The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Herman Wilhem Goering, et al, Defendants, sitting at Nurnberg, Germany, on 21 November, 1945, 1400-1630, Lord Justice Lawrence, presiding.

THE PRESIDENT: The Tribunal will adjourn for fifteen minutes at half past three and then continue until half past four.

JUSTICE JACKSON: I was about to take up CRIMES COMMITTED AGAINST THE JEWS.

The most savage and numerous crimes planned and committed by the Nazis were those against the Jews. Those in Germany, in 1933, numbered about 500,000. In the aggregate, they had made for themselves positions which excited envy, and had accumulated properties which excited the avarice of the Nazis. They were few enough to be helpless and numerous enough to be held up as a menace.

Let there be no misunderstanding about the charge of persecuting Jews. What we charge against these defendants is not those arrogances and pretensions which frequently accompany the intermingling of different races and peoples and which are likely, despite the honest efforts of Government, to produce regrettable crimes and convulsions. It is our purpose to show plans and designs to which all Nazis were fanatically committed, to annihilate all Jewish people. These crimes were organized and promoted by the Party Leadership, executed and protected by the Nazi officials, as we shall convince you by written orders of the Secret State Police itself.

The persecution of the Jews was a continuous and deliberate policy. It was a policy directed against other nations as well as against the Jews themselves. Anti-Semitism was promoted to divide and embitter the democratic peoples and to soften their resistance

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to the Nazi aggression. As Robert Ley himself declared, "The second German secret weapon is Anti-Semitism because if it is constantly pursued by Germany, it will become a universal problem which all nations will be forced to consider."

Anti-Semitism also has been aptly credited with being a "spearhead of terror." The ghetto was the laboratory for testing repressive measures. Jewish property was the first to be expropriated, but the custom grew and included similar measures against Anti-Nazi Germans, Poles, Czechs, Frenchmen, and Belgians. Extermination of the Jews enabled the Nazis to bring a practiced hand to similar measures against Poles, Serbs, and Greeks. The plight of the Jew was a constant threat to opposition and discontent among other elements of Europe's population -- pacifists, conservatives, communists, Catholics, Protestants, socialists, It was, in fact, a threat to every dissenting opinion and to every non-Nazi's life.

The persecution policy against the Jews commenced with non-violent measures, such as disfranchisement and discriminations against their religion, and the placing of impediments in the way of success in economic life. It moved rapidly to organized mass violence against them, physical isolation in ghettos, deportation, forced labor, mass starvation, and extermination. The Government, the Party formations indicted before you as criminal organizations, the Secret State Police, the Army, private and semi-public associations, and "spontaneous" mobs that were carefully inspired from official sources, were all agencies that were concerned in this persecution. Nor was it directed against individual Jews for personal bad citizenship or unpopularity. The avowed purpose was the destruction of the Jewish people as a whole, an end in itself; a measure of preparation for war, and a discipline for conquered peoples.

The conspiracy, or common plan to exterminate the Jew was so methodically and thoroughly pursued that despite German defeat and Nazi prostration, this Nazi aim largely has succeeded. Only remnants of the European Jewish population remain in Germany, in the countries

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which Germany occupied, and in those which were her satellites or collaborators. Of the 9,600,000 Jews who lived in Nazi dominated Europe, 60 percent are authoritatively estimated to have perished. 5,700,000 Jews are missing from the countries in which they formerly lived, and over 4,500,000 cannot be accounted for by the normal death rate nor by immigration; nor are they included among displaced persons. History does not record a crime perpetrated against so many victims or ever carried out with such calculated cruelty.

You will have difficulty, as I have, to look into the faces of these defendants and believe that in this Twentieth Century human beings could inflict such sufferings as will be proved here on their own countrymen as well as upon their so-called "inferior" enemies. Particular crimes, and the responsibility of defendants for them, are to be dealt with by the Soviet Government's Counsel, when committed in the East, and by Counsel for the Republic of France when committed in the West. I advert to them now only to show their magnitude as evidence of a purpose and a knowledge common to all defendants, of an official plan rather than of a capricious policy of some individual commander, and to show a continuity of Jewish persecution from the rise of the Nazi conspiracy to its collapse which forbids us to believe that any person could be identified with any part of Nazi action without approving this most conspicious item in their program.

The Indictment itself recites many evidences of the anti-Semitic persecutions. The defendant Streicher led the Nazis in anti-Semitic bitterness and extremism. In March of 1942 he complained that Christian teachings have stood in the way of "radical solution of the Jewish question in Europe", and quoted enthusiastically as the Twentieth Century solution the fuehrer's proclamation of February 24, 1942 that "the Jew will be exterminated". (Document No. 1957-PS). And on November 4, 1943, Streicher declared that the Jews, and I quote his words, "have disappeared from Europe and that the Jewish 'Reservoir of the East' from which the Jewish plague has for centuries beset the people of Europe, has ceased to exist." (Document No. 1965-PS, Nov. 4, 1943). Streicher now has the effrontery to tell

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us he is "only a Zionist" and he only wants to return the Jews to Palestine. But on May, 7, 1942 (Document No. 1979-PS) he wrote:

> "It is also not only an European problem! The Jewish question is a world question! Not only is Germany not safe in the face of the Jews as long as one Jew lives in Europe, but also the Jewish question is hardly solved in Europe so long as Jews live in the rest of the world."

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And the defendant Hans Frank, a lawyer by profession, I blush to say, summarized in his Diary in 1944 the Nazi policy thus: "The Jews are a race which has to be eliminated; whenever we catch one, it is his end." (Document No. 2233-PS, Vol. 1944, P. 26.) And earlier, speaking of his function as Governor General of Poland, Hans Frank confided to his diary this sentiment: "Of course I cannot eliminate all lice and Jews in only a year's time." (Document No. 2233-PS, Vol. IV, 1940, p. 1158.) I could multiply endlessly this kind of Nazi ranting but I will leave it to the evidence and turn to the fruit of this perverted thinking.

The most serious of the actions against Jews were outside of any law, but the law itself was employed to some extent. There were the infamous Nurnberg decrees of September 15, 1935. (R. 613-L.I., P. 1146.) The Jews were segregated into ghettos and put into forced labor; they were expelled from their professions; their property was expropriated; all cultural life, the press, the theatre, and schools were prohibited them; and the SD was made responsible for them. (Documents Nos. 112-PS, 212-PS, 069-PS.) This was an ominous guardianship.

It was ordered that "An eventual act by the civilian population against the Jews is not to be prevented as long as this is compatible with the maintenance of order and security in the rear of fighting troops." And again, "The first main goal of the German measures must be the strict segregation of Jewry from the rest of the population. In the execution of this, first of all, is the seizing of the Jewish populace by the introduction of a registration order and similiar, appropriate measures. Then immediately, the wearing of the recognition sign, consisting of a yellow Jewish star, is to be brought about and all rights of freedom for Jews are to be withdrawn. They are to be placed in ghettos, and, at the same time, are to be separated according to sexes. The entire Jewish property is to be seized and confiscated, with the exception of that which is necessary for a bare existence."

The anti-Jewish campaign became furious in Germany following the assassination in Paris of the German Legation Councillor von Rath. Heydrich, Gestapo head, sent a teletype to all Gestapo and SD offices with directions for handling "spontaneous" uprisings anticipated for the nights of November 9 and 10, 1938, and directed them to aid in destruction of Jewish-owned property and protect only that of Germans. (Document No. 765-PS.) No more cynical document ever came into evidence.

Then there is a report by an SS Brigade Leader, Dr. Stahlig, to Himmler, dated in 1942 (Document No. L-180)--and it will be put in evidence -- which recites the measures taken against Jews, as they proceeded in occupied countries, and I quote:

"Similarly, anti-semitic forces were induced to start progroms against the Jews during the first hours of capture though this inducement proved to be very difficult.

"Following our orders, the Security Police was determined to solve the Jewish question with all possible means and most decisively. But it was desirable that the Security Police should not put in an immediate appearance, at least in the beginning, since the extraordinarily harsh measures were apt to stir even German circles. It had to be shown to the world that the native population itself took the first actions by way of natural reaction..."

Of course, it is self-evident that these "uprisings" were managed by the government and the Nazi Party. If we were in doubt, we could resort to Streicher's memorandum of April 14, 1939, which says, "The anti-Jewish action of November, 1938 did not arise spontaneously from the people. * * * Part of the party formation have been charged with the execution of the anti-Jewish action." (Document No. 406-PS.) Jews as a whole were fined a billion Reichsmarks. They were excluded from all businesses, and claims against insurance companies for their burned properties were confiscated, all by decree of the defendant Goering. (Reich Law Register, 1938, Teil I, No. 189, pp. 1579-1582. Document No. L-1.)

Synagogues were the objects of a special vengeance. On November 10, 1938, the following order was given: "By order of the Group Commander, all Jewish Synagogues in the area of Brigade 50 have to be

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blown up or set afire. * * * The operation will be carried out in civilian clothing. * * * Execution of the order will be reported * * ." (Document No. 1721-PS.) Some 40 teletype messages from various police headquarters, which will be introduced to you, will tell the fury with which all Jews were pursued in Germany on those awful November nights. The SS troops were turned loose and the Gestapo supervised. Jewish owned property was destroyed. The Gestapo ordered twenty to thirty thousand "well-to-do- Jews" to be arrested. Concentration camps were to receive them and the order provided healthy Jews, fit for labor, were to be taken. (Document No. L-13) (Document No. L-33).

As the German frontiers were expanded by war, so the campaign against the Jews expanded. The Nazi plan never was limited to extermination in Germany; always it contemplated extinguishing the Jew in Europe and often in the world. In the west, the Jews were killed and their property taken over in occupied countries. But the campaign achieved its zenith of savagery in the East. The Eastern Jew, has suffered as no people every suffered. Their sufferings were carefully reported to the Nazi authorities to show faithful adherence to the Nazi design. I shall refer only to enough of the evidence of these to show the extent of the Nazi design and common plan for killing Jews.

If I should recite these horrors in words of my own, you would think me intemperate and unreliable. Fortunately, we need not take the word of any witness but the Germans themselves. I invite you now to look at a few of the vast number of captured German orders and reports that will be offered in evidence, to see what a Nazi invasion meant. We will present such evidence as the report of Action Group A of October 15, 1941, which boasts that in overruning the Baltic States, "Native Anti-Semitic forces were induced to start pogroms against the Jews during the first hours after occupation * * * . " (Document No. L-180, p. 4.) The report continues:

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"From the beginning it was to be expected that the Jewish problem in the East could not be solved by pogroms alone. In accordance with the basic orders received, however, the cleansing activities of the Security Police had to aim at a complete annihilation of the Jews. Special detachments reinforced by selected units - in Lithuania partisan detachments, in Latvia units of the Latvian auxiliary police - therefore performed extensive executions both in the town and in rural areas. The actions of the execution detachments were performed smoothly."

"The sum total of the Jews liquidated in Lithuania amounts to 71,105. During the pogroms in Kowno 3,800 Jews were eliminated, in the smaller town about 1,200 Jews."

"In Latvia, up to now a total of 30,000 Jews was executed. 500 were eliminated by pogroms in Riga."

Then there is a captured report from the Commissioner of Sluzk on October 20, 1941, which describes these executions in more detail. Let me quote from it:

". . . The first lieutenant explained that the police battalion had received the assignment to effect the liquidation of all Jews here in the town of Sluzk, within two days . . Then I requested him to postpone the action one day. However, he rejected this with the remark that he had to carry out this action everywhere and in all towns and that only two days were allotted for Sluzk. Within these two days, the town of Sluzk had to be cleared of Jews by all means . . . All Jews without exception were taken out of the factories and shops and deported in spite of our agreement. It is true that part of the Jews was moved by way of the ghetto where many of them were processed and still segregated by me, but a large part was loaded directly on trucks and liquidated without further delay outside of the town . . . For the rest, as regards the execution of the action. I must point out to my deepest regret that the latter bordered already on sadism. The town itself offered a picture of horror during the action. With indescribable brutality on the part of both the German police officers and particularly the Lithuanian partisans, the Jewish people, but also among them White Ruthenians, were taken out of their dwellings and herded together. Everywhere in the town shots were to be heard and in different streets the corpses of shot

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Jews accumulated. The White Ruthenians were in greatest distress to free themselves from the encirclement. Regardless of the fact that the Jewish people, among whom were also tradesmen, were mistreated in a terribly barbarous way in the face of the White Ruthenian people, the White Ruthenians themselves were also worked over with rubber clubs and rifle butts. There was no question of an action against the Jews any more. It rather looked like a revolution. . ."

There are reports which merely tabulate the numbers slaughtered. Another example relates that - - (Document No. R-102)

In Estonia, all Jews were arrested immediately upon the arrival of the Wehrmacht.

)

I call your attention to the fact that this is the report of the Wehrmacht, the Army, which became implicated in this business along with the SS.
Jewish men and women above the age of 16 and capable of work were drafted for forced labor. (P.8) Jews were subjected to all sorts of restrictions and all Jewish property was confiscated. (P.8)

All Jewish males above the age of 16 were executed, with the exception of doctors and elders. Only 500 of an original 4,500 Jews remained. (P.8)

37,180 persons have been liquidated by the Sipo and SD in White Ruthenia during October.

In one town, 337 Jewish women were executed for demonstrating a 'provocative attitude.' (P.13) In another, 380 Jews were shot for spreading vicious propaganda. (P.13)

And so the report continues, listing town after town, where hundreds upon hundreds of Jews were murdered.

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In one town 3,000; in another, 33,771; in another 3,145; in another 410; all listed in detail.

Other accounts tell not of the slaughter so much as of the depths of degradation to which the tormentors stooped. For example, we will show the report made to defendant Rosenberg about the army and the SS in the area under

Rosenberg's jurisdiction, which recited the following, (Document No. R. 135) and I quote:

"In the presence of SS man, a Jewish dentist has to break all gold teeth and fillings out of mouth of German and Russian Jews before they are executed." (Document B.)

It also says:

Men, women and children are locked into barns and burned alive. (Document A.)

Peasants, women and children are shot on pretext that they are suspected of belonging to bands. (Document C.)

We of the Western World heard of Gas Wagons in which Jews and political opponents were asphyxiated. We could not believe it. But here we will produce for you the report of May 16, 1942 from the German SS officer, Becker, to his supervisor in Berlin, and this is the story that it tells: (Document No. 656-PS.)

Gas vans in C. group can be driven to execution spot, which is generally stationed 10 to 15 kms. from main road only in dry weather. Since those to be executed become frantic if conducted to this place, such vans become immobilized in wet weather. (Letter, p.1.)

Gas vans in D group camouflaged as cabin trailers, but vehicles well known to authorities and civilian population which calls them 'Death Vans'. (Letter, p.2.)

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The writerof the letter ordered all men to keep as far away as possible during gassing. Unloading van after the gassing has 'atrocious spiritual and physical effect' on the men who have to unload them and they should be ordered not to participate in such work. (Letter, p.2.)

I shall not dwell on this subject longer than to quote one more sickening document which evidences the planned and systematic character of these Jewish persecutions. I hold an original report written with Teutonic thoroughness as to detail, illustrated with photographs to authenticate its almost incredible text, and beautifully bound in leather with the loving care bestowed to a proud work. It is the original report of the SS Brigade General Stroop in charge of the destruction of the Warsaw Ghetto, and Hans Frank was Governor General of Poland. Its title page carries the inscription, "The Jewish Ghetto in Warsaw no longer exists."

I shall ask your Honors to examine with care the photographs (showing to Tribunal) with which this document abounds, showing the destruction of this ghetto, showing the people driven before the flames, with the title "Jews and Bandits"; women and children and old men, not a man of fighting age in the picture except the German soldiers; the masses lined up against the wall for execution; the picture to illustrate the text showing that they jumped from the windows to escape the flames.

Now, let's read what General Stroop says in here:

"The resistance put up by the Jews and bandits could only be suppressed by energetic actions of our troops day and night. The Reichsfuehrer SS ordered, therefore on 23 April 1943 the cleaning out of the ghetto with utter

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ruthlessness and merciless tenacity. I, therefore, decided to destroy and burn down the entire ghetto without regard to the armament factories. These factories were systematically dismantled and then burned. Jews usually left their hideouts, but frequently remained in the burning buildings and jumped out of the windows only when the heat became unbearable. They then tried to crawl with broken bones across the street into buildings which were not afire. Sometimes they changed their hideouts during the night into the ruins of burned buildings. Life in the sewers was not pleasant after the first week. Many times we could hear loud voices in the sewers. SS men or policemen climbed bravely through the manholes to capture these Jews. Sometimes they stumbled over Jewish corpses; sometimes they were shot at. Tear gas bombs were thrown into the manholes and the Jews driven out of the sewers and captured. Countless numbers of Jews were liquidated in sewers and bunkers through blasting. The longer the resistance continued the tougher became the members of the Waffen SS police and Wehrmacht who always discharged their duties in an exemplary manner. Frequently Jews who tried to replenish their food supplies during the night or to communicate with neighboring groups were exterminated."

This action eliminated, says the SS commander, "a proved total of 56,065 Jews. To that, he says, we have to add the number of those killed through blasting, fire, etc., which cannot be counted."

We charge that all of the atrocities against Jews were the manifestation and culmination of the Nazi plan to which every defendant in this box was a party. I know very well that some of these men did take steps to spare some particular Jew for some personal reason from the horrors

H0004 - 0042

that awaited the unrescued Jew. Some protested that particular atrocities were excessive, and discredited the general policy. While a few defendants may show some efforts to make specific exceptions to the policy of Jewish extermination, I have found no instance in which any defendant opposed the policy itself or sought to revoke or even modify it.

Determination to destroy the Jews was a binding force which at all times cemented the elements of this conspiracy. On many internal policies there were differences among the defendants. But there is not one of them who has not echoed the rallying cry of Nazism - GERMANY AWAKE, JEWRY PERISH !

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I come to the discussion of terrorism and to preparation for the war.

How a Government treats its own inhabitants generally is thought to be no concern of other Governments or of international society. Certainly few oppressions or cruelties would warrant the intervention of foreign powers. But the German mistreatment of Germans is now known to pass in magnitude and savagery any limits of what is tolerable by modern civilization. Other nations, by silence, would take a consenting part in such crimes. These Nazi persecutions, moreover, take character as international crimes because of the purpose for which they were undertaken.

The purpose, as we have seen, of getting rid of the influence of free labor, the churches, and the Jews was to clear their obstruction to the precipitation of aggressive war. If aggressive warfare in violation of treaty obligation is a matter of international cognizance, the preparations for it must also be of concern to the international community. Terrorism was the chief instrument for securing the cohesion of the German people in war purposes. Moreover, these cruelties in Germany served as atrocity practice to discipline the membership of the criminal organization to follow the pattern later in occupied countries.

Through the police organizations and formations that are before you accused as criminal organizations, the Nazi Party leaders, aided at some point in their basic and notorious purpose by each of the individual defendants instituted a reign of terror. These espionage and police organizations were utilized to hunt down every form of opposition and to penalize every nonconformity. These organizations early founded and administered concentration camps - Buchenwald in 1933, Dachau in 1934. Dachau lies but a few miles from here, and but a few hours' drive. We hope this Tribunal will visit this place and see the magnitude of the layout which goes with a concentration camp, and the implements of torture that remain. But these notorious names were not alone. Concentration camps came to dot the German map and to number scores. At first they met with resistance from some Germans. We have a captured letter from Minister of Justice Guertner

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to Hitler which is revealing. (Document No. 787-PS.) A gestapo official had been prosecuted for crimes committed in one of these camps, and the Nazi Governor of Saxony had promptly asked that the proceeding be quashed. The Minister of Justice, to his credit, in June of 1935 protested because, as he called to the attention of Hitler himself - and I now quote the statements of the Minister of Justice himself -- "In this camp unusually grave mistreatments of prisoners has occurred at least since Summer 1933. The prisoners not only were beaten with whips without cause, similarly as in the Concentration Camp Bredow near Stettin till they lost consciousness, but they were also tortured in other manners, e.g. with the help of a dripping apparatus constructed exclusively for this purpose, under which prisoners had to stand until they were suffering from serious purulent wounds of the scalp".

I shall not take time to detail the ghastly proceedings in these concentration camps. Beatings, starvings, tortures, and killings were routine -- so routine that the tormenters became blase and careless. We will show you a report of discovery that one night, in one of these camps, 186 persons were executed while there were orders for only 180. (Document No. 653-PS.) Another report describes how they made a mistake and sent two urns to a family where there was only one victim. (Document No. 843-PS.) Inmates were compelled to execute each other. In 1942, they were paid five Reichsmarks per execution, but on June 27, 1942, SS General Gluecks ordered commandants of all concentration camps to reduce this honorarium to three cigarettes. (Document No. 1934-PS.) In 1943, the Reichs leader of the SS and Chief of German Police ordered the corporal punishments on Russian women to be applied by Polish women and vice versa, but the price was not frozen. "As reward, a few cigarettes" was authorized. (Document No. 804-PS.) Under the Nazis, human life had been progressively devalued until it finally became worth less than a handful of tobacco - ersatz tobacco. There were, however, some traces of the milk of human kindness. On August 11, 1942, an order went from Himmler to the commanders of fourteen concentration camps that "only German prisoners are allowed to beat other German prisoners." (Document No. 1654-PS.)

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Mystery and suspense was added to cruelty in order to spread torture from the inmate to his family and friends. Men and women disappeared from their homes or business or from the streets, and no word came of them. The omission of notice was not due to overworked staff; it was due to policy. The Chief of the SD reported that in accordance with orders from the Fuehrer anxiety should be created in the minds of the family of the arrested person. (Document No. 668-PS.) Deportations and secret arrests were labeled, with a Nazi wit which seems a little ghoulish, "Nacht und Nebel" (Night and Fog) (Document No. 833-PS.)

On the 2nd of February, 1942, an order was issued by the Chief of the Wehrmacht High Command, in wh ch the fields were advised that this decree carries a basic innovation. "The Fuehrer and Commander in Chief of the Armed Forces commands that crimes of the specified sort committed by civilians of the occupied territories, are to be punished by the pertinent courts-martial in the occupied territories only when, (a) the sentence calls for the death penalty; and (b) the sentence is pronounced within eight days after arrest. Only when both conditions are met, does the Fuehrer and Commander in Chief of the Armed Forces hope for the desired deterrent effect from the conduct of punitive proceedings in the occupied territories. In other cases, in the future, the accused are to be secretly brought to Germany, and the further conduct of the trial carried on here. The deterrent effect of these measures lies (a) in allowing the disappearance of the accused without a trace; (b) therein that no information whatsoever may be given about their whereabouts and their fate."

To clumsy cruelty, scientific skill was added. "Undesirables", as they were called, were exterminated by injection of drugs into the bloodstream, by asphyxiation in gas chambers. They were shot with poison bullets, to study the effects. (Document No. 1974-PS.)

Then, to cruel experiments the Nazi added obscene ones. These were not the work of underling degenerates but of master minds high in the Nazi conspiracy. On May 20, 1942, General Field Marshal Milch authorized SS General Wolff to go ahead at Dachau Camp with so-called "cold experiments"; and four female gypsies were supplied for the purpose.

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(Document No. 400-PS.) Himmler gave permission to carry on these "experiments" elsewhere. (Document No. 1615-PS.) (Document No. 1617-PS.) (Document 1971-PS.) At Dachau, the reports of the "doctor" in charge show that victims were immersed in cold water until their body temperature was reduced to 28 degrees centigrade (82.4 degrees Farenheit), when they all died immediately. (Document No. 1618-PS.) This was in August 1942. But the "doctor's" technique improved. By February, 1943, he was able to report that thirty persons were chilled to 27 to 29 degrees, their hands and feet frozen white, and their bodies "rewarmed" by a hot bath. But the Nazi scientific triumph was "rewarming with animal heat." The victim, all but frozen to death, was surrounded with bodies of living women until he revived and responded to his environment by having sexual intercourse. (Reports of Dr. Rascher, Document No. 1616-PS.) Here Nazi degeneracy reached its nadir.

I dislike to encumber your records with such morbid tales, but we are in the grim business of trying men as criminals, and these are the things that their agents say happened. We will show you these concentration camps in motion pictures, just as the Allied armies found them when they arrived, and the measures General Eisenhower had to take to clean up the enormous accumulation of human bodies. Our proof will be disgusting and you will say I have robbed you of your sleep. But these are the things which have turned the stomach of the world and set every civilized hand against Nazi Germany.

H0004 - 0047

Germany became one vast torture chamber. Cries of its victims were heard round the world and brought shudders to civilized people everywhere. I am one who received during this war most atrocity tales with suspicion and skepticism. But the proof here will be so overwhelming that I venture to predict not one word I have spoken will be denied. These defendants will only deny personal responsibility or knowledge.

Under the clutch of the most intricate web of espionage and intrigue that any modern state has endured, and persecution and torture of a kind that has not been visited upon the world in many centuries, the elements of the German population which were both decent and courageous were annihilated. Those which were decent but weak were intimidated. Open resistance, which had never been more than feeble and irresolute, disappeared. But resistance, I am happy to say, always remained, although it was manifest in only such events as the abortive effort to assassinate Hitler on July 20, 1944. With resistance driven underground, the Nazi had the German State in his own hands.

But the Nazis not only silenced discordant voices. They created positive controls as effective as their negative ones. Propaganda organs, on a scale never before known, stimulated the party and party formations with a permanent enthusiasm and abandon such as we democratic people can work up only for a few days before a general election. They inculcated and practiced the Fuehrerprinzip which centralized control of the Party and of the Party-controlled state over the lives and thought of the German people, who are accustomed to look upon the German State by whomever controlled with a mysticism that is incomprehensible to my people.

All these controls from their inception were exerted with unparalleled energy and singlemindedness to put Germany on a war footing. We will show from the Nazis' own documents their secret training of military personnel, their secret creation of a military air force. Finally, a conscript army was brought into being. Financiers, economists, industrialists, joined in the plan and promoted elaborate alterations in industry and finance to support an unprecendented concentration of resources and energies upon

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preparations for war. Germany's rearmament so outstripped the strength of her neighbors that in about a year she was able to crush the whole military force of Continental Europe, exclusive of that of Soviet Russia, and then to push the Russian armies back to the Volga. These preparations were of a magnitude which surpassed all need of defense and every defendant, and every intelligent German, well understood them to be for aggressive purposes.

Before resorting to open aggressive warfare, the Nazis undertook some rather cautious experiments to test the spirit and resistance of those who lay across their path. They advanced, but only as others yielded, and kept in a position to draw back if they found a temper that made persistence dangerous.

On 7 March 1936, the Nazis reoccupied the Rhineland and then proceeded to fortify it in violation of the Treaty of Versailles and the Pact of Locarno. They encountered no substantial resistance and were emboldered to take the next step, which was the acquisition of Austria. Despite repeated assurances that Germany had no designs on Austria, invasion was perfected. Threat of attack forced Schuschnigg to resign as Chancellor of Austria and put the Nazi defendant Seyss-Inquart in his place. The latter immediately opened the frontier and invited Hitler to invate Austria "to preserve order". On March 12th the invasion began. The next day, Hitler proclaimed himself Chief of the Austrian State, took command of its armed forces, and a law was enacted annexing Austria to Germany.

Threats of aggression had succeeded without arousing resistance. Fears nevertheless had been stirred. They were lulled by an assurance to the Czechoslovak Government that there would be no attack on that country. We will show that the Nazi Government already had detailed plans for the attack. We will lay before you the documents in which these conspirators planned to create an incident to justify their attack. They even gave consideration, according to their own documents, to assassinating their own Ambassador at Prague in order to create a sufficiently dramatic incident. They did precipitate a diplomatic crisis which endured through the summer. Hitler set September 28th as the day when troops should be

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ready for action. Under the threat of immediate war, the United Kingdom and France concluded a pact with Germany and Italy at Munich on September 29, 1938, which required Czechoslovakia to acquiesce in the cession of the Sudetenland to Germany. It was consummated by German occupation on October 1, 1938.

The Munich Pact pledged no further aggression against Czechoslovakia, but the Nazi pledge was lightly given and quickly broken. On the 15th of March, 1939, in defiance of the treaty of Munich itself, the Nazis seized and occupied Bohemia and Moravia, which constituted the major part of Czechoslovakia not already ceded to Germany. Once again the West stood aghast, but it dreaded war, it saw no remedy except war, and it hoped against hope that the Nazi fever for expansion had run its course. But the Nazi world was intoxicated by these unresisted successes in open alliance with Mussolini and in covert alliance with France. Then, having made a deceitful, delaying peace with Russia, the conspirators entered upon the final phase of the plan to renew world war.

I am not going to prolong this address by detailing the steps leading to the war of aggression which began with the invasion of Poland on September 1, 1939. The further story will be unfolded to you by the British Delegation from documents including those of the German High Command itself. I speak only of the conspiracy aspects of the aggression. The plans had been laid long in advance. As early as 1935 Hitler appointed the defendant Schacht to the position of "General Deputy for the War Economy". (Document No. 2261-PS) We have the diary of General Jodl (Document No. 1780-PS); the "Plan Otto", Hitler's own order for attack on Austria in case trickery failed (Document No. C-102); the "Plan Green" which was the blueprint for attack on Czechoslovakia; the plan for the War in the West (Document No. 375-PS); Funk's letter to Hitler dated August 25, 1939, detailing the long course of economic preparation for war (Document No. 699-PS). We have the top-secret mobilization order for 1939-40 prescribing secret steps to be taken during a "period

H0004-0050

of tension," as it was described, during which no "'state of war' will be publicly declared even if open war measures against the foreign enemy will be taken." This latter order (Document No. 1639-PS.) is in our possession despite a secret order issued on March 16, 1945, when Allied troops were advancing into the heart of Germany, to burn these plans (Document No. 1640-PS). We have also Hitler's directive, dated December 18, 1940, for the "Barbarossa Contingency," which was a code name, outlining the strategy of the attack upon Russia (Document No. 446-PS). That plan in the original bears the initials of the defendants Keitel and Jodl. They were planning the attack and planning it long in advance of the declaration of war. We have detailed information concerning "Case White," the plan for attack on Poland (Document N o. 2327-PS). That began the war. This was in June 14th. The attack did not come until September. It is a top secret document. Only twenty copies were circulated. We have number eight. It starts: "The Commander in Chief of the Armies has ordered the working out of a plan of deployment against Poland which takes in account the demands of political leadership for the opening of the war by surprise and for quick successes." It also declares that it is the duty of Commanding Generals, Provisional Commanders, and Commandants to limit as much as possible the number of persons who will be informed and to limit the extent of the information so that no persons will get information of this plan." We also have the order for the attack on England, initialed again by Keitel and Jodl. It is interesting that it commences by saying that "Although the British military position is so hopeless, they show not the slightest sign of giving in."

As early as November 5, 1937, Hitler told defendants Goering, Raeder, and Neurath, among others, that German rearmament was practically accomplished and that he had decided to secure by force, starting with a lightning attack on Czechoslovakia and Austria, greater living space for Germans in Europe no later than 1943-5 and perhaps as early as 1938. (Document L-12). Not the least incriminating are the minutes of Hitler's own meetings with his high advisors, which we have. These minutes were rather meticulously kept, as the Germans were apt to do. The Fuehrer advised his staff that -

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"It is a question of expanding our living space in the East and of securing our food supplies . . . over and above the natural fertility, thoroughgoing German exploitation will enormously increase the surplus."

"There is therefore no question of sparing Poland, and we are left with the decision:" -- their own underscoring --

"To attack Poland at the first suitable opportunity.

We cannot expect a repetition of the Czech affair. There will be war."

Conclusive evidence! When these men entered Poland they knew they were precipitating war. On August 22nd, 1939 Hitler again addressed members of the High Command, telling them when the start of military operations would be ordered. He disclosed that for propaganda purposes, he would provocate a good reason. But he added, "It will make no difference whether this reason will sound convincing or not. After all, the victor will not be asked whether he talked the truth or not. We have to proceed brutally. The stronger is always right." (Document No. 1014-PS.). It was at all times utterly hopeless for the Western Powers to avoid war, because Hitler was determined to make war. In his conference with all Supreme Commanders, dated November 23, 1939, he said this: "For the first time in history we have to fight on only one front. The other front is at present free, but no one can know how long that will remain so. I have doubted for a long time whether I would strike in the East and then in the West. Basically, I did not organize the armed forces in order not to strike. The decision to strike was always in me. Earlier or later I wanted to solve the problem. Under pressure it was decided that the East was to be attacked first."

We know the bloody sequel. Frontier incidents were staged. Demands were made for cession of territory. When Poland refused, the German forces invaded on September 1st, 1939. Warsaw was destroyed; Poland fell. The Nazis, in accordance with plans which will be developed more fully by my colleagues, moved swiftly to extend their aggression throughout Europe and to gain the advantage of surprise over their unprepared neighbors and I might say parenthetically that in these remarks of Hitler he goes to some length

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pointing out that the powers of the West were unprepared and unexpectant of war. Despite repeated and solemn assurances of peaceful intentions, they invaded Denmark and Norway on 9th April, 1940; Belgium, The Netherlands and Luxembourg on 10th May, 1940; Yugoslavia and Greece on 6th April, 1941.

As part of the Nazi preparation for aggression against Poland and her allies, Germany, on 23rd August, 1939 had entered into a non-aggression pact with Soviet Russia. It was only a delaying treaty intended, as the documents will show, to be kept no longer than necessary to prepare for its violation. On June 22, 1941, pursuant to long matured plans, the Nazis hurled troops into Soviet territory without any declaration of war. The entire European world was aflame.

I have been asked to present to you a chart illustrative of much that might be explained showing the violation of treaties which were involved and showing the systematic plan of violation. There is a key, as you will observe in the lower left-hand corner (indicating chart) to the treaties involved in these aggressions and each of the tongs showing the series of attacks carries marks which show the treaties that were violated. I shall not take pains to go into a detailed analysis of these documents which fall to my brethern representing the British. I think it is sufficient to show the calculated disregard, the uniform disregard, toward the entire world, the obligations under which Germany had entered.

Now I will ask you if you will to change quickly, if you can, and show us the Germany of 1935 and show the Germany as it stood when the Nazi conquest was at its height. This chart (indicating chart) will make plain the extent to which Germany had incorporated territory and the extent to which it had occupied and controlled territory although not incorporated. I may say that it is our purpose, as the evidence proceeds, to put these charts in such form as I have here so that you may be enabled to have them in more convenient form.

By these agressions (indicating chart) Germany had incorporated the red on the chart and it occupied and controlled the territory shown in blue, if that is the color that we would call it.

H0004-0053

The Nazi plans did not stop at the point I have indicated. The Nazi plans involved a conspiracy with Japan.

The Nazi plans of agression called for use of Asiatic allies and they found among the Japanese men of kindred mind and purpose. They were brothers, under the skin.

Himmler records a conversation he had on January 31, 1939 with General Oshima, Japanese Ambassador at Berlin. We have Mr. Himmler's original memorandum, signed with his signature. He wrote, (Document No. 2195-PS.) among other things, of his interview with Oshima, this:

> "Furthermore, he (Oshima) had succeeded up to now to send 10 Russians with bombs across the Caucasian frontier. These Russians had the mission to kill Stalin. A number of additional Russians, whom he had also sent across, had been shot at the frontier."

Exchanging secrets with the Japanese!

On September 27th, 1940, the Nazis concluded a German-Italian-Japanese ten-year military and economic alliance by which those powers agreed "to stand by and cooperate with one another in regard to their efforts in Greater East Asia and regions of Europe respectively wherein it is their prime purpose to establish and maintain a new order of things * *."

On March 5, 1941, a top secret directive was issued by defendant Keitel. It stated that "The Fuehrer has ordered instigation of Japan's active participation in the war" and directed that "Japan's military power has to be strengthened by the disclosure of German war experiences and support of a military, economic and technical nature has to be given." The aim was stated to be to crush England quickly and "keep the United States out of this war." (Document Nos. 384-PS and 1489-PS.)

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On March 29, 1941, the defendant Ribbentrop told Matsuoka, the Japanese Foreign Minister, that the German Army was ready to strike against Russia. Matsuoka reassured Ribbentrop about the Far East. Japan, he reported, was acting at the moment as though she had no interest whatever in Singapore, but "intends to strike when the right moment comes." (Document No. 1877-PS.) On April 5, Ribbentrop urged Matsuoka that entry of Japan into the war would "hasten the victory" and would be more in the interest of Japan than of Germany since it would give Japan a unique chance to fulfill her national aims and to play a leading part in Eastern Asia. (Document No. 1882-PS.)

The proofs in this case will also show that the leaders of Germany were planning war against the United States from its Atlantic as well as instigating it from its Pacific approaches. A captured memorandum from the Fuehrer's headquarters dated October 29, 1940, signed by General Falkenstein, asks certain information as to air bases and supply and reports.

-- Here again we do not speculate. We have the original document, signed by the General, and it says, dated October 29, 1940--.

"The Fuehrer is at present occupied with the question of the occupation of the Atlantic islands with a view to the prosecution of war against America at a later date. Deliberations on this subject are being embarked upon here." (Document No. 376-PS.)

On December 7th, 1941, a day which the late President Roosevelt declared "will live in infamy," victory for German aggression seemed certain. The Wehrmacht was at the gates of Stalingrad. Taking advantage of the situation,

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and while her plenipotentiaries were creating a diplomatic diversion in Washington, Japan without declaration of war treacherously attacked the United States at Pearl Harbor and the Philippines. Attacks followed swiftly on the British Commonwealth, French Indo-China, and The Netherlands in the Southwest Pacific. These aggressions were met in the only way they could be met, with instant declarations of war and with armed resistance which mounted slowly through many long months of reverse until finally the Axis was crushed to earth and deliverance for its victims was won.

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H0004-0056

We will not be obliged to guess as to the motives or goal of the Nazi Party. The immediate aim was to undermine the Weimar Republic. The order to all Party members to work to that end was given in a letter from Hitler of August 24, 1931 to Rosenberg, of which we will produce the original (Document 047-PS. from Rosenberg file.) Captured film enables us to present the defendant, Alfred Rosenberg, who from the screen will himself tell you the story. The SA practised violent interference with elections. We have here the reports of the SD describing in detail how its members later violated the secrecy of elections in order to identify those who opposed them. (Document No. R-142). (Report from files of S. D. Kochem). The report of 7 May 1938 will be offered to you in due course and points out exactly the method by which some members of the election committee marked all the ballots with numbers and made up a list and it points out how this resulted -- it was marked with skimmed milk, by the way -- and points out how they were then able to tell by the markings those who were against the Nazi party in the election.

The Party activity, in addition to all the familiar forms of political contest, took on the aspect of a rehearsal for warfare. It utilized a Party formation, "DIE STURMABTEILUNGEN", commonly known as the SA. This was a voluntary organization of youthful and fanatical Nazis trained for the use of violence under semi-military discipline. Its members began by acting as bodyguards for the Nazi leaders and rapidly expanded from defensive to offensive tactics. They became disciplined ruffians for the breaking up of opposition meetings and the terrorization of adversaries. They boasted that their task was to make the Nazi Party "master of the streets". The SA was the parent organization of a number of others, such as the SS, formed in 1925 and distinguished for the fanaticism and cruelty of its members. Then there was the SD, and the Secret State Police, the infamous Gestapo formed in 1934 immediately after Nazi accession to power. A glance at the chart - and we shall offer to you in evidence in due course a complete chart of the Nazi Party - I will

H0004-0057

not take time to point out more than those things significant at this point in the argument, is enough to show how completely it differed from the political parties we know. It had its own source of law in the fuehrer and sub-fuehrers. It had its own courts and its own police. The conspirators set up a government within the Party to exercise outside the law every sanction that any legitimate state could exercise and many that it could not. Its chain of command was military, and its formations were martial in name as well as in function. They were composed of battalions set up to bear arms under military discipline, motorized corps, flying corps, and the infamous "Death Head Corps", which was not misnamed. The Party had its own secret police, its security units, its intelligence and espionage division, its raiding forces, and its youth forces. It established elaborate administrative mechanisms to identify and liquidate spies and informers, to manage concentration camps, to operate death vans, and to finance the whole movement. Through these concentric circles of authority, the Nazi Party, as its leadership later boasted, eventually organized and dominated every phase of German life - but not until they had waged a bitter internal struggle characterized by brutal criminality, we charge here. In preparation for this phase of their struggle, they created a party police system. This became the pattern and the instrument of the police state, which was the first goal in their plans.

The Party formations, including the Leadership Corps of the Party, the SD, the SS, the SA and the infamous Secret State Police, or Gestapo, -- all these stand accused before you as criminal organizations; organizations which, as we will prove from their own documents, were recruited only from recklessly devoted Nazis, ready in conviction and temperament to do the most violent of deeds to advance the common program. They terrorized and silenced democratic opposition and were able at length to combine with political opportunists, militarists, industrialists, monarchists, and political reactionaries.

H0004 - 0058

On January 30, 1933, Adolf Hitler became Chancellor of the German Republic. An evil combination, represented in the prisoner's docks by its most eminent survivors, had succeeded in possessing itself of the machinery of the German Government, a facade behind which they thenceforth would operate to make a reality of the war of conquest they solong had plotted. The conspiracy had passed into its second phase.

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THE CONSOLIDATION OF NAZI POWER

We shall now consider the steps, which embraced the most hideous of crimes against humanity, to which the conspirators resorted in perfecting control of the German State and in preparing Germany for the aggressive war indispensable to their ends.

The Germans of the 1920's were a frustrated and baffled people as a result of defeat and the disintegration of their traditional government. The democratic elements, which were trying to govern Germany through the new and feeble machinery of the Weimar Republic, got inadequate support from the democratic forces of the rest of the world including my country. It is not to be denied that Germany, when world-wide depression was added to her other problems, was faced with urgent and intricate pressures in her economic and political life which necessitated bold measures.

The internal measures by which a nation attempts to solve its problems are ordinarily of no concern to other nations. But the Nazi program from the first was recognized as a desperate program for a people still suffering the effects of an unsuccessful war. The Nazi policy embraced ends always recognized as attainable only by a renewal and a more successful outcome of war in Europe. The conspirators' answer to Germany's problems was nothing less than to plot the regaining of territories lost in the First World War and the acquisition of other fertile lands of Central Europe by dispossessing or exterminating those who inhabited them. They also contemplated - and I want to emphasize this point for it runs through the whole Nazi history - destroying or permanently weakening all other neighboring peoples so as to win virtual domination of Europe and probably of the world. The precise limits of their ambition we need not define for it was and is as illegal to wage aggressive war for small stakes as for large ones.

We find at this period two governments in Germany -- the real and the ostensible. The forms of the German Republic were maintained for a time, and it was the outward and visible government. But the real

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authority in the State was outside of and above the law and rested in the Leadership Corps of the Nazi Party.

On February 27, 1933, less than a month after Hitler became Chancellor, the Reichstag building was set on fire. The burning of this symbol of free parliamentary government was so providential for the Nazis that it was believed they staged the fire themselves. Certainly when we contemplate their known crimes, we cannot believe they would shrink from mere arson. It is not necessary, however, to resolve the controversy as to who set the fire. The significant point is in the use that was made of the fire and of the state of public mind it produced. The Nazis immediately accused the Communist Party of instigating and commiting the crime, and turned every effort to portray this single act of arson as the beginning of a communist revolution. Then, taking advantage of the hysteria, the Nazis met this phantom revolution with a real one. In the following December, the Supreme Court with commendable courage and independence acquitted the accused communists, but it was too late to influence the tragic course of events which the Nazi conspirators had set rushing forward.

Hitler, on the morning after the fire, obtained from the aged and ailing President von Hindenburg a Presidential decree suspending the extensive guarantees of individual liberty contained in the constitution of the Weimar Republic. That decree provides in Article 1 that Sections 114, 115, 117, 118, 123, 124, and 153 of the constitution of the German Reich are suspended until further notice. It goes on: Thus restrictions on personal liberty, on the right of free expression of opinion, including freedom of the press, on the right of assembly and the right of association, and violations of the privacy of postal, telegram, and telephonic communications and warrants for house searches, orders for confiscation as well as restrictions on property are permissible beyond the legal limits otherwise prescribed. Now the Weimar constitution contained extensive guarantees of personal freedom.

H0004-0061

Article 114, which the decree suspended, had provided that the freedom of the person is invoilable. Curtailment or deprecation of personal freedom by public authority is only permissible on a legal basis. Persons who have been deprived of their freedom must be informed at the latest on the following day by whose authority and for what reasons the deprecations of freedom were ordered. Opportunity shall be afforded them without delay of submitting objection to their deprecations to freedom.

Article 115 provided that every German's home is his sanctuary and is invoilable. Exceptions may be made as provided by law.

Article 117 provided for the secrecy of the mails.

Article 118 provided freedom of speech in language which might have been applicable in any of our countries.

Article 123 gave the right to peacable assembly without notice and without special permission.

Article 124 gave them the right to form associations and societies for purposes not contrary to criminal law.

Article 153 guaranteed their rights of property. All of these guarantees of the Weimar constitution were swept away by the Hitler-Hindenburg decree the morning after the fire.

It must be said in fairness to von Hindenburg that the constitution itself authorized him temporarily to suspend these fundamental rights "if the public safety and order in the German Reich are considerably disturbed or endangered." It must also be acknowledged that President Ebert previously had invoked this power.

But the National Socialist coup was made possible because the terms of the Hitler-Hindenburg decree departed from all previous ones in which the power of suspension had been invoked. Whenever President Ebert had suspended constitutional guarantees of individual rights, his decree had expressly revived the Protective Custody Act adopted by the Reichstag in 1916 during the previous war. This Act guaranteed a judicial hearing within 24 hours of arrest, gave a right to have counsel and to inspect all relevant records, provided for appeal, and authorized compensation from Treasury funds for erroneous arrests.

H0004-0062

minate peoples and institutions which might serve as a focus or instrument for overturning their "new world order" at any time or place. We consider these crimes against humanity in this opening address as manifestations of the one Nazi plan and I propose to unfold to you our proof according to General von Fritsch's classification.

1. THE BATTLE AGAINST THE WORKING CLASS.

When Hitler came to power, there were in Germany three groups of trade unions. The General German Trade Union Confederation (ADGB) with twenty-eight affiliated unions, and the General Independent Employees Confederation (AFA) with thirteen federated unions together numbered more than 4,500,000 members. The Christian Trade Union had over 1,250,000 members.

The working people of Germany, like the working people of other nations, had little to gain personally by war. While labor is usually brought around to the support of the nation at war, labor by and large is a pacific, though by no means a pacifist force in the world. The working people of Germany had not forgotten in 1933 how heavy the yoke of the war lord can be. Moreover, the German working people were identified in the minds of the militarists with the revolution of 1918, when the workers joined with the revolting seamen and soldiers against a continuance of the first World War, an act for which German labor was never forgiven by the military crowd. The Nazi program required that this part of the German population not only be stripped of power to resist diversion of its scanty comforts to armament, but also be wheedled or whipped into new and unheard of sacrifices as part of the Nazi war preparation. Labor must be cowed, and that meant its organizations and means of cohesion and defense must be destroyed.

The purpose to regiment labor for the Nazi Party was avowed by Robert Ley in a speech to workers on May 2, 1933 in which he said this:

> "You may say what else do you want, you have the absolute power. True we have the power, but we do not have the whole people, we do not have you workers 100%, and it is you whom we want; we will not let you be until you stand with us in com-

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The Hitler-Hindenberg decree of February 28, 1933 containing no such safeguards. The omission may not have been noted by von Hindenburg. Certainly he did not appreciate its effect. It left the Nazi police and party formations, already existing and functioning under Hitler, completely unrestrained and irresponsible. Secret arrest and indefinite detention, without charges, without evidence, without hearing, without counsel, became the method of inflicting inhuman punishment on any whom the Nazi police suspected or disliked. No court could issue an injunction, or writ of habeas corpus, or certiorari. The German people were in the hands of the police, the police were in the hands of the Nazi Party, and the Party was in the hands of a ring of evil men, of whom the defendants here before you are surviving and representative leaders.

The Nazi conspiracy, as we shall show, always contemplated not merely overcoming current opposition but contemplated exterminating elements which could not be reconciled with the Nazi philosophy of the state. It not only sought to establish the Nazi "new order" but to secure its sway, as Hitler predicted, "for a thousand years." Nazis were never in doubt or disagreement as to what these dissident elements were. They were concisely described by one of them, Col. General von Fritsch, on December 11, 1938, in these words. (Document No. 1947-PS.) I emphasize this because it identifies so clearly the object of the Nazi program of extermination. He writes in a document which will be proved to you:

> Shortly after the first war I came to the conclusion that we should have to be victorious in three battles if Germany were to become powerful again: 1. The battle against the working class -- Hitler has won this (this is 1938). 2. Against the Catholic Church, perhaps better expressed against Ultramontanism. 3. Against the Jews."

The warfare against these elements was continuous. The battle in Germany was but a practice skirmish for the worldwide drive against them. Here in point of geography and of time are two groups of crimes against humanity -- one within Germany before and during the war, and one in occupied territory during the war. But these two are not separated in Nazi planning. They are a continuous unfolding of the Nazi plan to exter-

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plete, genuine acknowledgment."

The first Nazi attack was upon the two larger unions. On April 21, 1933 an order not even in the name of the Government, but in the name of the Nazi Party was issued by the conspirator Robert Ley who described himself therein as "Chief of Staff of the political organization of the NSDAP." This order was applicable to the Trade Union Confederation and the Independent Employees Confederation, the two largest of the German Unions. It directed

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seizure of their properties and arrest of the principal leaders. The party order directed party organs which we here denounce as criminal associations, the SA and SS "to be employed for the occupation of the trade union properties, and for the taking into custody of personalities who come into question." And it directed taking into "protective custody" of all chairmen and district secretaries of such unions and branch directors of the labor bank.

These orders were carried out on May 2, 1933. All funds of the labor unions, including pension and benefit funds, were seized. Union leaders were sent to concentration camps. A few days later, on May 10, 1933, Hitler appointed Robert Ley leader of the German Labor Front (DEUTSCHE ARBEITSFRONT), which succeeded to all the confiscated union funds. The German Labor Front, a Nazi controlled labor bureau, was then set up under Ley to teach the Nazi philosophy to German workers and to weed out from industrial employment all who were backward in their lessons. "Factory Troops" as they were called, were organized as an "ideological shock squad within the factory." The Party order provided that "outside of the German Labor Front, no other organization (whether of workers or of employees) is to exist." On June 24, 1933 the remaining Christian Trade Unions were seized pursuant to an order, again of the Nazi Party, signed by Ley.

On May 19, 1933, this time by a government decree, it was provided that "trustees" of labor, and I quote the word "trustees" of labor, appointed by Hitler, should regulate the conditions of all labor contracts, replacing the former process of collective bargaining. On November 30, 1934 a decree "regulating national labor" introduced the fuehrer principle into industrial relations. It provided that the owners of enterprises should be the leaders or fuehrers and the workers should be the followers, and it authorized the owner-fuehrers to "make decisions for employees and laborers in all matters concerning the enterprise." It was by such bait that the great German industrialists were induced to support the Nazi cause, to their own ultimate ruin.

Not only did the Nazis dominate and regiment German labor, but they forced the youth into the ranks of the laboring people they had thus led into chains. Under a compulsory labor service decree on 26 June, 1935,

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young men and women between the ages of 18 and 25 were conscripted for labor. Thus was the purpose to subjugate German labor accomplished. In the words of Ley, this accomplishment consisted "in eliminating the association character of the trade union and employees' associations, and in its places we have substituted the conception 'soldiers of work'." The productive manpower of the German nation was thus brought under Nazi control and discipline. By these steps the defendants won the battle to liquidate labor unions as potential opposition and were enabled to impose upon the working class the burdens of preparing for aggressive war.

Robert Ley, the field marshal of this battle against labor, answered our indictment with suicide. Apparently he knew no better answer.

2. I take up the battle against the churches, the second in the described elements that must be defeated.

The Nazi Party was always predominantly anti-Christian in its ideology. But we who believe in freedom of conscience and of religion base no charge of criminality on anybody's ideology. It is not because the Nazi themselves were irreligious or pagan, but because they persecuted others of the Christian faith that they become guilty of crime, and it is because the persecution was a step in the preparation for aggressive warfare that the offense becomes one of international consequence. To remove every moderating influence among the German people and to put its population on a total war footing, the conspirators devised and carried out a systematic and relentless repression of all Christian sects and churches.

We will ask you to convict the Nazis on their own evidence on this point. Martin Bormann in June, 1941, issued a secret decree on the relation of Christianity and National Socialism. I quote from it. The decree provided: "With the Party, its components, and attached units, the Fuehrer has created for himself thereby the German Reich leadership, an instrument which makes him independent of the church. All influences which might impair or damage the leadership of the people exercised by the Fuehrer with the help of the National Socialist

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Party must be eliminated. More and more the people must be separated from the churches and their organs and pastors. But never again must an influence on leadership of the people be yielded to the churches. This influence must be broken completely and finally. Only the Reich government, and by its direction the party, its components, and attached units have a right to leadership of the people. Just as the deleterious influence of astrologers, seers, and other fakirs are eliminated and suppressed by the State, so must the possibility of church influence also be totally removed. Not until this has happened does the state leadership have influence on the individual citizens. Not until then are the people and Reich secure in their existence for all time."

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And how the party had been securing the Reich from Christian influence will be proved by such items as this telegram from the Gestapo, Berlin, to the Gestapo, Nurnberg on July 24, 1938, which recites what was going on in Rottenburg. (Document No. 848-PS).

I got from the Gestapo a telegram signed by Dr. Best from the Berlin office of the 23rd of July 1938.

"In connection with my report (special delivery of 23 July 1938 subject: Bishop Dr. Sproll of Rottenburg, I further communicate that the following teletype from the Gestapo office in Stuttgart just came in here: The Party on 23 July 1939 from 2100 on carried out the third demonstration against Bishop Sproll. Participants, about 2,500-3,000, were brought in from outside by bus, etc. The Rottenburg populace again did not participate in the demonstrations. The town took rather a hostile attitude to the demonstrations. The action got completely out of hand of the Party Member responsible for it. The demonstrators stormed the palace and beat in the gates and doors. About 150 to 200 people forced their way into the palace, searched the rooms, threw files out of the windows, and rummaged through the beds in the rooms of the palace. One bed was ignited. Before the fire got to the other objects of equipment in the rooms and the palace, the flaming bed could be thrown from the window and the fire extinguished. The Bishop was with Archbishop Groeber of Freiburg, and the ladies and gentlemen of his menage in the chapel at prayer. About 25 to 30 people pressed into this chapel and molested those present. Bishop Groeber was taken for Bishop Sproll. He was grabbed by the robe and dragged back and forth. Finally the intruders realized that Bishop Groeber is not the one they are seeking. They could then be persuaded to leave the building. After the evacuation of the palace by

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the demonstrators I had an interview with Archbishop Groeber, who left Rottenburg in the night. Groeber wants to turn to the Fuehrer and Reich Minister of the Interior Dr. Frick anew. On the course of the action, the damage done as well as the homage of the Rottenburg populace beginning today for the Bishop I shall immediately hand in a full report, after I am in the act of suppressing counter mass meetings. Gestapo Office Stuttgart. In case the Fuehrer has instructions to give in this matter, I request that these be transmitted most quickly, best by telephone to Gestapo Office, telephone Berlin 12 00 40 attention of Regierung Assistant Freytag, so that corresponding instructions can be forwarded to Stuttgart.

Gestapo Office Berlin

By Direction

(signed) Dr. Best. "

Later, defendant Rosenberg wrote to Bormann reviewing the proposal of Kerrl as Church Minister to place the Protestant Church under State tutelage and proclaim Hitler its Supreme head. Rosenberg was opposed, hinting that Naziism was to suppress the Christian Church completely after the war.

The persecution of all pacifist and dissenting sects, such as Jehovah's Witnesses and the Pentecostal Association, was peculiarly relentless and cruel. The policy toward the Evangelical Churches, however, was to use their influence for the Nazis' own purposes. In September, 1933, Mueller was appointed the Fuehrer's representative with power to deal with the "affairs of the Evangelical Church" in its relations to the State. Eventually, steps were taken to create a Reich Bishop vested with power to control this Church. A long conflict followed, Pastor Niemoeller was sent to concentration camp, and extended interference with

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Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, The United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Herman Wilhelm Goering, et al, Defendants, sitting at Nuremberg, Germany, on 21 November 1945, 1000-1230 Lord Justice Lawrence, presiding.

THE PRESIDENT: A motion has been filed with the Tribunal and the Tribunal has given it consideration. Insofar as it may be a plea to the jurisdiction of the Tribunal, it conflicts the Article 3 of the Charter and will not be entertained. Insofar as it may contain other arguments, which may be opened to the Defendents, they may be heard at a later stage.

Now in accordance with Article 24 of the Charter, which provides that after the indictment has been read in court, the Defendants shall be called upon to plead guilty or not guilty; I now direct the Defendants to plead either guilty or not guilty.

MR. RUDOLF DIX (Defense Counsel): May I speak to Your Lordship for just a moment?

THE PRESIDENT: You may not speak to me in support of the motion with which I have just dealt on behalf of the Tribunal. So far as that motion is a plea to the jurisdiction of the Tribunal, it conflicts with Article 3 and will not be entertained. Insofar as it containes or may contain arguments, which may be open to the Defendants, those arguments may be heard later.

MR. RUDOLF DIX: As a speaker for the defense as a whole, I have another question I would like to ask. The defense counsel was forbidden to talk with the Defentants this morning. It is an absolute necessity that before the session the defence Counsel should speack with the Defentants. It sometimes happens that in the evening after the session one cannot reach one's Defentant, and it is also possible that one has to prepare things over night and one wants to talk with hime about the next morning. It is usually always possible that the defense counsel should speack to his client before the session. I, therefore, make the request in the name of the entire defense, that we be allowed to consult with our clients in the courtroom itself; otherwise we are not able to arrange our defense as we wish.

THE PRESIDENT: I am afraid that you cannot consult with your clients in the courtroom except by written communication. When you are out of

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the courtroom, security regulations can be carried out and you have, so far as those security regulations go, full opportunity to consult with your clients. In the courtroom we must confine you to written communications to your clients. At the end of each day's sitting, you will have full opportunity to consult with them in private.

MR. RUDOLF DIX: I shall discuss this with my colleagues of the defense and we should like perhaps to return to this question.

DR. RALPH THOMA (Defense Counsel): May I have the floor?

THE PRESIDENT: Will you state your name please.

DR. RALPH THOMA: Dr. Ralph Thoma. I represent the Defendant Rosenberg. Yesterday my client gave me a statement as regards the question of guilt or innocence. I took this statement and promised him to talk with him about it. Neither last night nor this morning have I had an opportunity to talk with him; and, consequently, I am not in a position, nor is my client in a position to make a statement as to whether he is guilty or not guilty. I consequently request an interruption of the trial so that I may speack with my client.

THE PRESIDENT: Dr. Thoma, the Tribunal will be prepared to adjourn for fifteen minutesin order that you may have an opportunity of consulting with your clients.

DR. RALPH THOMA: Thank you. I should like to make a statement. A number of my colleagues have just told me that they are in the same position as I am.

THE PRESIDENT: I meant that all defense counsel should have an opportunity of consulting with their clients; but I would point out to the defense counsel that they have had several weeks preparation for this trial, and that they must have anticipated that the provisions of Article 24 would be followed, but now we will adjourn for fifteen minutes in which all of you may consult with your clients.

DR. RALPH THOMA: May I say something further in that respect, your Honor?

THE PRESIDENT: Yes.

DR. RALPH THOMA: We only found out a day before yesterday that statements should be made as regards innocence or guilt. Can this question be answered at greater length or only with the answer "yes" or "no". We have had no time to talk at great length about it.

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THE PRESIDENT: One moment. The question will have to be answered in the words of Article 24 of the Charter, and those words are printed in italics: "The Tribunal shall ask each defendant whether he pleads guilty or not guilty." That is what they have to do at that stage. Of course the Defendants will have a full opportunity themselves, if they are called as witnesses, and through their counsel to make their defense fully at a later stage.

(A recess was taken.)

(The member of the Bench returned to the court room.)

THE PRESIDENT: I will now call upon the defendants to plead guilty or not guilty to the charges against them. They will proceed in turn to a point in the dock opposite to the microphone.

Hermann Goering.

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HERMANN GOERING: Before I a nswer the question of the high court whether or not I am guilty --

THE PRESIDENT: I informed the Court that defendants were not entitled to make a statement. You must plead guilty or not guilty.

HERMANN GOERING: I declare myself in the sense of the indictment not guilty.

THE PRESIDENT: Rudolf Hess.

RUDOLF HESS: No.

THE PRESIDENT: That will be entered as a plea of not guilty. (Laughter).

THE PRESIDENT: If there is any disturbance in court, those who make it will have to leave the court.

Joachim von Ribbentrop!

JOACHIM von RIBBENTROP: I declare myself in the sense of the indictment not guilty.

THE PRESIDENT: Wilhelm Keitel!

WILHELM KEITEL: I declare myself not guilty.

THE PRESIDENT: In the absence of Ernest Kaltenbrunner, the trial will proceed against him, but he will have an opportunity of pleading when he is sufficiently well to be brought back into court.

Alfred Rosenberg!

ALFRED ROSENBERG: I declare myself in the sense ofnthe indictment not guilty.

THE PRESIDENT: Hans Frank!

HANS FRANK: I declare myself not guilty.

THE PRESIDENT: Wilhelm Frick!

WILHELM FRICK: Not guilty.

THE PRESIDENT: Julius Streicher!

JULIUS STREICHER: Not guilty.

THE PRESIDENT: Walter Funk.

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WALTER FUNK: I declare myself not guilty.

THE PRESIDENT: Hjalmar Schacht!

HJALMAR SCHACHT: I am guilty in no respect.

THE PRESIDENT: Karl Doenitz.

KARL DOENITZ: Not guilty.

THE PRESIDENT: Erich Raeder!

ERICH RAEDER: I declare myself not guilty.

THE PRESIDENT: Baldur von Schirach!

BALDUR von SCHIRACH: I declare myself in the sense of the indictment not guilty.

THE PRESIDENT: Fritz Sauckel!

FRITZ SAUCKEL: I declare myself in the sense of the indictment, before God and the world and my people, not guilty.

THE PRESIDENT: Alfred Jodl!

ALFRED JODL: Not guilty. What I have done or had to do, I have a pure conscience for, before God, my conscience and my people.

THE PRESIDENT: Franz von Papen!

FRANZ von PAPEN: I declare myself guilty not at all.

THE PRESIDENT: Arthur Seyss-Inquart!

ARTHUT SEYSS-INQUART: I declare myself not guilty.

THE PRESIDENT: Albert Speer!

ALBERT SPEER: Not guilty.

THE PRESIDENT: Konstantin von Neurath!

KONSTANTIN von NEURATH: I answer the question in the negative.

THE PRESIDENT: Hans Fritzche!

HANS FRITZCHE: As regards this indictment, not guilty.

(At this point Hermann Goering arose in the prisoner's box.

THE PRESIDENT: You are not entitled to address the tribunal except through your counsel, at the present time.

I will now call upon the Chief Prosecutor for the United States of America.

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MR. JUSTICE JACKSON: May it please Your Honors,

The privilege of opening the first trial in history for crimes against the peace of the world imposes a grave responsibility. The wrongs which we seek to condemn and punish have been so calculated, so malignant and so devastating, that civilization cannot tolerate their being ignored because it cannot survive their being repeated. That four great nations, flushed with victory and stung with injury stay the hands of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power ever has paid to Reason.

This Tribunal, while it is novel and experimental, is not the product of abstract speculations nor is it created to vindicate legalistic theories. This inquest represents the practical effort of four of the most mighty of nations, with the support of fifteen more, to utilize International Law to meet the greatest menace of our times -- aggressive war. The common sense of mankind demands that law shall not stop with the punishment of petty crimes by little people. It must also reach men who possess themselves of great power and make deliberate and concerted use of it to set in motion evils which leave no home in the world untouched. It is a cause of this magnitude that the United Nations will lay before Your Honors.

In the prisoners' dock sit twenty-odd broken men. Reproached by the humiliation of those they have led almost as bitterly as by the desolation of those they have attacked, their personal capacity for evil is forever past. It is hard now to perceive in these miserable men as captives the power by which as Nazi leaders they once dominated much of the world and terrified most of it. Merely as individuals,

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their fate is of little consequence to the world.

What makes this inquest significant is that these prisoners represent sinister influences that will lurk in the world long after their bodies have returned to dust. We will show them to be living symbols of racial hatreds, of terrorism and violence, and of the arrogance and cruelty of power. They are symbols of fierce nationalisms and of militarism, of intrigue and war-making which have embroiled Europe generation after generation, crushing its manhood, destroying its homes, and impoverishing its life. They have so identified themselves with the philosophies they conceived and with the forces they directed that any tenderness to them is a victory and an encouragement to all the evils which are attached to their names. Civilization can afford no compromise with the social forces which would gain renewed strength if we deal ambiguously or indecisively with the men in whom those forces now precariously survive.

What these men stand for we will patiently and temperately disclose. We will give you undeniable proofs of incredible events. The catalogue of crimes will omit nothing that could be conceived by a pathological pride, cruelty, and lust for power. These men created in Germany, under the "Fuhrerprinzip", a National Socialist depotism equalled only by the dynasties of the ancient East. They took from the German people all those dignities and freedoms that we hold natural and inalienable rights in every human being. The people were compensated by inflaming and gratifying hatreds toward those who were marked as "scapegoats." Against their opponents, including Jews, Catholics, and free labor the Nazis directed such a campaign of arrogance, brutality, and annihilation as the

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world has not witnessed since the pre-Christian ages. They excited the German ambition to be a "master race," which of course implies serfdom for others. They led their people on a mad gamble for domination. They diverted social energies and resources to the creation of what they thought to be an invincible war machine. They overran their neighbors. To sustain the "master race" in its war-making, they enslaved millions of human beings and brought them into Germany, where these hapless creatures now wander as "displaced persons". At length bestiality and bad faith reached such excess that they aroused the sleeping forces of imperiled Civilization. Its united efforts have ground the German war machine to fragments. But the struggle has left Europe a liberated yet prostrate land where a demoralized society struggles to survive. These are the fruits of the sinister forces that sit with these defendants in the prisoners' dock.

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In justice to the nations and the men associated in this prosecution, I must remind you of certain difficulties which may leave their mark on this case. Never before in legal history has an effort been made to bring within the scope of a single litigation the developments of a decade, covering a whole Continent, and involving a score of nations, countless individuals, and innumerable events. Despite the magnitude of the task, the world has demanded immediate action. This demand has had to be met, though perhaps at the cost of finished craftsmanship. In my country, established courts, following familiar procedures, applying well thumbed precedents, and dealing with the legal consequences of local and limited events seldom commence a trial within a year of the event in litigation. Yet less than eight months ago today the courtroom in which you sit was an enemy fortress in the hands of German SS troops. Less than eight months ago nearly all our witnesses and documents were in enemy hands. The law had not been codified, no procedures had been established, no Tribunal was in existence, no usable courthouse stood here, none of the hundreds of tons of official German documents had been examined, no prosecuting staff had been assembled, nearly all the present defendants were at large, and the four prosecuting powers had not yet joined in common cause to try them. I should be the last to deny that the case may well suffer from incomplete researches and quite likely will not be the example of professional work which any of the prosecuting nations would normally wish to sponsor. It is, however, a completely adequate case to the judgment we shall ask you to render, and its fuller development we shall be obliged to leave to historians because we have not had the time to examine all of the sources of evidence that might be available.

Before I discuss particulars of the evidence we shall offer, some general considerations w ich may affect the credit of this trial in the eyes of the world should be candidly faced. There is a dramatic disparity between the circumstances of the accusers and of the accused that might discredit our work if we should falter, in even minor matters, in being fair and temperate.

Unfortunately, the nature of these crimes is such that both prosecution and judgment must be by victor nations over vanquished foes.

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The worldwide scope of the aggressions carried out by these men has left but few real neutrals. Either the victors must judge the vanquished or we must leave the defeated to judge themselves. After the First World War, we learned the futility of the latter course. The former high station of these defendants, the notoriety of their acts, and the adaptability of their conduct to provoke retaliation make it hard to distinugish between the demand for a just and measured retribution, and the unthinking cry for vengeance which arises from the anguish of war. It is our task, so far as humanly possible, to draw the line between the two. We must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow. We must summon such detachment and intellectual integrity to our task that this trial will commend itself to posterity as fulfilling humanity's aspirations to do justice.

At the very outset, let us dispose of the contention that to put these men to trial is to do them an injustice entitling them to some special consideration. These defendants may be hard pressed but they are not ill used. Let us see what alternative they would have to being tried.

More than a majority of these prisoners surrendered to or were tracked down by forces of the United States of America. Could they expect us to make American custody a shelter for our enemies against the just wrath of our Allies? Did we spend American lives to capture them only to save them from punishment? Under the principles of the Moscow Declaration, those suspected war criminals who are not to be tried internationally must be turned over to individual governments for trial at the scene of their outrages. Many less responsible and less culpable American-held prisoners than these have been and will continue to be turned over to other United Nations for local trial. If these defendants should succeed, for any reason, in escaping the condemnation of this Tribunal, or if they obstruct or abort this trial, those who are American-held prisoners will be delivered up.

H0004-0080

to our continental Allies. For these defendants, however, we have set up an International Tribunal and the United States has undertaken the burden of participating in a complicated effort to give them fair and dispassionate hearings. That is the best known protection to any man with a defense worthy of being heard.

If these men are the first war leaders of a defeated nation to be prosecuted in the name of the law, they are also the first to be given a chance to plead for their lives in the name of the law. Realistically, the Charter of this Tribunal, which gives them a hearing, is also the source of their only hope. It may be that these men of troubled conscience, whose only wish is that the world forget them, do not regard a trial as a favor. But they do have a fair opportunity to defend themselves, represented here by able counsel who have shown their capacity to handle their case with credit and who have acted with courage, and these men now enjoy a favor which, when in power, they rarely extended even to their fellow countrymen. Despite the fact that public opinion already condemns their acts, we agree that here they must be given a presumption of innocence, and we accept the burden of proving criminal acts and the responsibility of each of these defendants for their commission.

When I say that we do not ask for convictions unless we prove crime, I do not mean mere technical or incidental transgression of international conventions. We charge guilt on planned and intended conduct that involves moral as well as legal wrong. And we do not mean conduct that is a natural and human, even if illegal, cutting of corners, such as many of us might well have committed had we been in the defendants' positions. It is not because they yielded to the normal frailties of human beings that we accuse them. It is their abnormal and inhuman conduct which brings them to this bar.

We will not ask you to convict these men on the testimony of their foes. There is no count of the Indictment that cannot be proved by books and records. The Germans were always meticulous record keepers, and these defendant had their share of the Teutonic passion for thoroughness in putting things on paper. Nor were they without vanity. They arranged frequently to be photographed in action. We will show you their own films. You will see their own

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conduct and hear their own voices as these defendants reenact for you, from the screen, some of the events in the course of the conspiracy.

We would also make clear that we have no purpose to incriminate the whole German people. We know that the Nazi Party was not put in power by a majority of the German vote. We know it came to power by an evil alliance between the most extreme of the Nazi revolutionists, the most unrestrained of the German reactionaries, and the most aggressive of the German militarists. If the German populace had willingly accepted the Nazi program, no Storm-troopers would have been needed in the early days of the Party and there would have been no need for concentration camps or the Gestapo, both of which institutions were inaugurated as soon as the Nazis gained control of the German state. Only after these lawless innovations proved successful at home were they taken abroad.

The German people should know by now that the people of the United States hold them in no fear, and in no hate. It is true that the Germans have taught us the horrors of modern warfare, but the ruin that lies from the Rhine to the Danube shows that we, like our Allies, have not been dull pupils. If we are not awed by German fortitude and proficiency in war, and if we are not persuaded of their political maturity, we do respect their skill in the arts of peace, their technical competence, and the sober, industrious and self-disciplined character of the masses of the German people. In 1933, we saw the German people recovering prestige in the commercial, industrial and artistic world after the set-back of the last war. We beheld their progress neither with envy nor malice. The Nazi regime interrupted this advance. The recoil of the Nazi aggression has left Germany in ruins. The Nazi readiness to pledge the German word without hesitation and to break it without shame has fastened upon German diplomacy a reputation for duplicity that will handicap it for years. Nazi arrogance has made the boast of the "master race" a taunt that will be thrown at Germans the world over for generations. The Nazi night-mare has given the German name a new and sinister significance through-

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out the world which will retard Germany a century. The German, no less than the non-German world, has accounts to settle with these defendants.

The fact of the war and the course of the war, which is the central theme of our case, is history. From September 1st, 1939, when the German armies crossed the Polish frontiers, until September, 1941, when they met epic resistance at Stalingrad, German arms seemed invincible. Denmark and Norway, The Netherlands and France, Belgium and Luxembourg, the Balkans and Africa, Poland and the Baltic States, and parts of Russia, all had been overrun and conquered by swift, powerful, well-aimed blows. That attack upon the peace of the world is the crime against international society which brings into international cognizance crimes in its aid and preparation which otherwise might be only internal concerns. It was aggressive war, which the nations of the world had renounced. It was war in violation of treaties, by which the peace of the world was sought to be safeguarded.

This war did not just happen - it was planned and prepared for over a long period of time and with no small skill and cunning. The world has perhaps never seen such a concentration and stimulation of the energies of any people as that which enabled Germany twenty years after it was defeated, disarmed, and dismmmembered to come so near carrying out its plan to dominate Europe. Whatever else we may say of those who were the authors of this war, they did achieve a stupendous work in organization, and our first task is to examine the means by which these defendants and their fellow conspirators prepared and incited Germany to go to war.

In general, our case will disclose these defendants all uniting at some time with the Nazi Party in a plan which they well knew could be accomplished only by an outbreak of war in Europe. Their seizure of the German state, their subjugation of the German people, their terrorism and extermination of dissident elements, their planning and waging of war, their calculated and planned ruthlessness in the conduct of warfare, their deliberate and planned criminality toward conquered peoples, - all these are ends for which they acted in concert; and all of these phases of the

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conspiracy were common ones to these defendants, and it was a conspiracy which reached one goal only to set out for another and more ambitious one. We shall also trace for you the intricate web of organizations which these men formed and utilized to accomplish these ends. We will show how the entire structure of offices and officials was dedicated to the criminal purposes and committed to use of the criminal methods planned by these defendants and their co-conspirators, many of whom war and suicide have put beyond reach.

It is my purpose to open the case, particularly under Count One of the Indictment, and to deal with the common plan or conspiracy to achieve ends possible only by resort to crimes against peace, war crimes, and crimes against humanity. My emphasis will not be on individual barbarities and perversions which may have occurred independently of any central plan. One of the dangers ever present is that this trial may be protracted by details of particular wrongs and that we will become lost in a "wilderness of single instances". Nor will I now dwell on the activity of individual defendants except as it may contribute to exposition of the common plan.

The case as presented by the United States will be concerned with the brains and authority back of all the crimes. These defendants were men of a station and rank which does not soil its own hands with blood. They were men who knew how to use lesser folk as tools. We want to reach the planners and designers, the inciters and leaders without whose evil architecture the world would not have been for so long scourged with the violence and lawlessness, and wracked with the agonies and convulsions, of this terrible war.

I shall first take up the lawless road by which these men came to possess the power which they have so used. The chief instrumentality of cohesion in plan and action was the National Socialist German Workers Party, known as the Nazi Party. Some of the defendants were with it from the beginning. Others joined only after success seemed to have validated its lawlessness or power had invested it with immunity from the processes of the law. Adolf Hitler became its supreme leader or "fuehrer" in 1921.

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On the 24th of February, 1920, at Munich, it publicly had proclaimed its program. I cannot undertake to read it in full. Some of its purposes would commend themselves to many good citizens, such as the demands for "profit-sharing in the great industries," "generous development of provision for old age," "creation and maintenance of a healthy middle class," "a land reform suitable to our national requirements," and "raising the standard of health." It also made a strong appeal to that sort of nationalism which in ourselves we call patriotism and in our rivals chauvinism. It demanded "equality of rights for the German people in its dealing with other nations and the evolution of the peace treaties of Versailles and St Germaine." It demanded the "union of all Germans on the basis of the right of self-determination of peoples to form a Great Germany." It demanded "land and territory (colonies) for the enrichment of our people and the settlement of our surplus population." All these, of course, were legitimate objectives if they were to be attained without resort to aggressive warfare.

The Nazi Party from its inception, however, contemplated war. It demanded "the abolition of mercenary troops and the formation of a national army." It proclaimed that "In view of the enormous sacrifice of life and property demanded of a nation by every war, personal enrichment through war must be regarded as a crime against the nation. We demand, therefore, the ruthless confiscation of all war profits." I do not criticise this policy. Indeed, I wish it were universal. I merely point out that in a time of peace, in 1920, war was a preoccupation of the Party, and it started the work of making war less offensive to the masses of the people. With this it combined a program of physical training and sports for youth that became, as we shall see, the clak for a secret program of military training.

The Nazi Party declaration also committed its members to an anti-Semitic program. It declared that no Jew or any person of non-German blood could be a member of the nation. Such persons were to be disfranchised, disqualified for office, subject to the alien laws, and entitled to nourishment only after the German population had first been provided for. All who had entered Germany after August 2, 1914 were to be required forthwith to depart, and all non-German immigration was to be prohibited.

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We have not sought to include every person who may, at some time, have supported the Nazi party but only the leadership core which pledged itself to achieve its ends at the risk of their lives.

Let us now see how the leaders of the Party fulfilled their pledge to proceed regardless of consequences. Obviously, their foreign objectives, which were nothing less than to undo international treaties and to wrest territory from foreign control, as well as most of their internal program, could be accomplished only by possession of the machinery of the German State. The first effort, accordingly, was to subvert the Weimar Republic by violent revolution. An abortive putsch at Munich in 1923 landed many of them in jail. The period of meditation which followed produced "Mein Kampf", henceforth the source of law for the Party workers and a source of considerable revenue to its supreme leader. The Nazi plans for the violent overthrow of the feeble Republic then turned to plans for its capture.

No greater mistake could be made than to think of the Nazi Party in terms of the loose organizations which we of the western world call "political parties." In discipline, structure, and method the Nazi Party was not adapted to the democratic process of persuasion. It was an instrument of conspiracy and of coercion. The Party was not organized to take over power in the German State by winning support of a majority of the German people. It was organized to seize power in defiance of the will of the people.

The Nazi Party, under the "Fuehrerprinzip," was bound by an iron discipline into a pyramid, with the Fuehrer, Adolf Hitler, at the top and broadening into a numerous Leadership Corps, composed of overlords of a very extensive Party membership at the base. By no means all of those who may have supported the movement in one way or another were actual Party members. The membership took the Party oath which in effect, amounted to an abdication of personal intelligence and moral responsibility. This was the oath: "I vow inviolable fidelity to Adolf Hitler; I vow absolute obedience to him and to the leaders he designates for me." The membership in daily practice followed its leaders with an idolatry and self-surrender more Oriental than Western. 109

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The significance of this early declaration is that it became the publicly known and avowed policy of this party, that every man who joined in forwarding its purposes knew and understood. The Party also avowed, even in those early days, an authoritarian and totalitarian program for Germany. It demanded creation of a strong central power with unconditional authority, nationalization of all businesses which had been "amalgamated," and a "reconstruction" of the national system of education which "must aim at teaching the pupil to understand the idea of the State (state sociology)." Its hostility to civil liberties and freedom of the press was distinctly announced in these words: "It must be forbidden to publish newpapers which do not conduce to the national welfare. We demand the legal prosecution of all tendencies in art or literature of a kind likely to disintegrate our life as a nation and the suppression of institutions which might militate against the above requirements," of course, as interpreted by the Nazis.

The forecast of religious persecution was clothed in the language of religious liberty, for the Nazi program stated, "We demand liberty for all religious denominations in the State." But, it continues with the limitation, "so far as they are not a danger to it and do not militate against the morality and moral sense of the German race." Of course, again according to their conception.

The Party program foreshadowed the campaign of terrorism. It announced, "We demand ruthless war upon those whose activities are injurious to the common interests", and it demanded that such offenses be punished with death.

It is significant that the leaders of this Party interpreted this program as a belligerent one certain to precipitate conflict. The Party platform concluded, "The leaders of the Party swear to proceed regardless of consequences - if necessary, at the sacrifice of their lives toward the fulfillment of the foregoing points." It is this Leadership Corps of the Party, not its entire membership, that stands accused as a criminal organization.